This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

Soc
16666
313.40

Which Will be Best for the Workman? 1913

Digitized by Google

Soc 1666.313.40

Harvard College
Library

By Exchange

Digitized by Google

ortemen's compensation

WHICH WILL BE BEST FOR THE WORKMAN?

OCIETIES
TL. 3-11

BY

EDSON S. LOTT

Digitized by Google

Digitized by Google

WHICH WILL BE BEST FOR THE WORKMAN?

CAN COMPENSATION LAWS BE MOST EFFECTIVELY AND ECONOMICALLY ADMINISTERED BY MEANS OF STOCK LIABILITY INSURANCE COMPANIES, MUTUAL INSURANCE ASSOCIATIONS, OR STATE INSURANCE SCHEMES?

AN ADDRESS BEFORE THE INTERNATIONAL ASSOCIATION OF FACTORY INSPECTORS AND A SERIES OF LETTERS TO VARIOUS CORRESPONDENTS ON THIS IMPORTANT TOPIC, WITH AN INTRODUCTION CONTAINING A GENERAL EXPLANATION OF THE SUBJECT

BY

EDSON S. LOTT

PRESIDENT OF THE UNITED STATES CASUALTY COMPANY

UNITED STATES CASUALTY COMPANY
141 BROADWAY, NEW YORK
1913

Digitized by Google

Soc 1666.313.40

HARVARD COLLEGE LIBRARY
BY EXCHANGE
JUL 8 1937

PUBLIC LIBRARY
OF
VIRGINIA

Digitized by Google

INTRODUCTION

It is my earnest and sincere desire that more effective measures shall be adopted to prevent accidents to industrial workers.

It would be well if this could be carried to the point where workmen's compensation laws and all forms of employers' liability insurance would become dead letters from non-use. Of course I know that this condition of affairs can never exist. After an employer has taken all precautions taught by experience and known to science, some machine will give way in a spot where weakness was not suspected, or some workman will come to the factory with a muddled brain after a night's debauch and injure himself and perhaps several of his temperate, steady and careful fellow employees, by his recklessness.

But much more can be done than has been accomplished heretofore in the direction of accident prevention.

The first purpose of workmen's compensation laws ought to be to prevent accidents.

The second, to help the maimed employee and the dependents of the one who is killed, to repair, in a purely financial way, the loss which they have suffered. In either instance complete reparation is impossible.

Heretofore the liability insurance companies have done very much more in the way of accident prevention than the States have accomplished. The same doubtless will be true under the workmen's compensation laws and State insurance schemes, so far as they have been adopted. The liability insurance companies have had, and still have, trained inspectors whose sole business it is to inspect factories and advise employers how accidents can be prevented and to insist, on behalf of their companies, that certain measures be taken to guard machinery, and otherwise lessen the terri-

Digitized by Google

ble loss of life and limb which has heretofore characterized our industrial activities.

The insurance companies find from actual experience that the factories where the loss ratio is low and the premium proportionately small, are the ones where the greatest amount of money is to be made. As a corollary to this they find that in the business or factory where accidents frequently occur and are severe in their nature, the risk is a bad one to carry, even though the premiums are high. This is conclusively proved by the fact that certain classes of extra-hazardous risks cannot secure insurance at any price.

The interest of the insurance companies, therefore, is in the direction of taking risks with small premiums and small loss ratios.

It is of no importance what the **object** of the liability insurance companies is in endeavoring to decrease the number of industrial accidents. The main point lies in the **results** achieved by them as compared with the effect of statutes, mutual association and State insurance schemes.

Of course, it is the height of injustice to criticise the liability insurance companies for abuses which have grown up and have been due to vicious laws, rather than to their operations thereunder. The companies have not made the laws. They take them as they find them. They insure their policyholders against the claims that may be made under the law as it stands. Naturally there have been some abuses. This is true under any law. But the courts have been open to anyone aggrieved. It certainly cannot be said that either the courts or juries have had any especially tender regard for either the liability insurance companies or their policyholders in actions by employees for personal injuries. Naturally the employers have been unwilling to pay for insurance which would cover anything more than their liability under the law. Naturally, also, the insurance companies could not afford to give any greater protection than that for which

Digitized by Google

they received premiums. Should they have attempted to do this they would soon have been in the hands of receivers, and the bankruptcy of a large liability insurance corporation would be a great calamity.

Workmen's compensation laws have been adopted in a dozen or more States with a suddenness which has been somewhat disconcerting, in view of the varied and contradictory provisions of the different statutes. Nevertheless the liability insurance companies welcome the adoption of these laws, not because their net income will be increased, but because the business will be put on a more stable and satisfactory basis; a basis which will remove much of the criticism due to the comparatively large amount which was paid for legal expenses under the old régime, and which should, in all justice, go to injured employees.

Naturally the liability insurance companies object to State insurance schemes. Such schemes take away a portion of their business. But if they cannot justify their continued activities on any better basis than this they ought not to survive. The truth of it is there is not only a justification but an economic necessity for the continuance of the liability insurance companies in working out the problems under the workmen's compensation principle. To help demonstrate the truth of this assertion the letters contained in this pamphlet have been published. They contain actual discussions of these live topics with men who are vitally interested in this important question.

In writing to different correspondents on the same subject there is naturally and necessarily some duplication of arguments. Nevertheless, it has been thought to be the wisest course, in all except a few instances, to print the letters in their entirety, to show the actual point of view at which the subject has been approached, in the discussion with various interested parties, rather than to formulate one complete article containing all of the various points.

Digitized by Google

Introduction

Many of the State legislatures will meet during the year 1913. A number of them will consider workmen's compensation laws. It is hoped that they will give the matter serious and conscientious consideration when doing so, and that they will not commit, what the writer believes to be the grievous error, of engulfing their various States in the so-called State insurance plan, which involves both the collection and the payment of enormous insurance funds by political commissions. Such practice is sure to result, in the end, in a grievous burden to the employers, the employees and the people of the respective States generally, and this burden, in the end, will fall most heavily on the workmen themselves.

EDSON S. LOTT.

NEW YORK, *January*, 1913.

Digitized by Google

TABLE OF CONTENTS

PAGE

INTRODUCTION. iii

INEFFICIENT FACTORY INSPECTION AND ITS CAUSES.

Address of Edson S. Lott, President, United States Casualty Company, New York, at the Annual Convention of International Association of Factory Inspectors, Washington, D. C., 1912 1

LETTER NO. 1.—STATE INSURANCE AND ITS WEAKNESSES. MISUNDERSTANDING AS TO THE GERMAN PLAN IN ITS APPLICATION TO AMERICA AND ESPECIALLY TO THE SCHEMES ADOPTED IN WASHINGTON AND OHIO.

To Hon. John T. Clarkson, Chairman Employers' Liability and Workmen's Compensation Commission of Iowa 12

LETTER NO. 2.—PREVENT MONOPOLY IN WORKMEN'S COMPENSATION INSURANCE BY PERMITTING FREE COMPETITION.

To Hon. John T. Clarkson, Chairman Employers' Liability and Workmen's Compensation Commission of Iowa 20

LETTER NO. 3.—THE PERCENTAGE OF PAYMENTS BY EMPLOYERS WHICH REACHES INJURED EMPLOYEES.

To Hon. Frank P. Bennett, Jr., State Senator of Massachusetts 37

LETTER NO. 4.—THE BASIS OF PREMIUM RATES FOR WORKMEN'S COMPENSATION INSURANCE.

To Hon. Samuel Botterill, East Orange, N. J., of the New Jersey Workmen's Compensation Commission 44

LETTER NO. 5.—SAME SUBJECT AS NO. 4 AND TO THE SAME CORRESPONDENT. 50

LETTER NO. 6.—THE REASON WHY PREMIUMS FOR WORKMEN'S COMPENSATION INSURANCE ARE HIGHER THAN EMPLOYERS' LIABILITY INSURANCE.

To Hon. Francis H. Bohlen, Secretary Industrial Accident Commission of Pennsylvania 52

Digitized by Google

PAGE

LETTER NO. 7.—THE ADVANTAGES OF A STOCK LIABILITY INSURANCE COMPANY OVER A MUTUAL LIABILITY INSURANCE ASSOCIATION. EFFECTIVE WORK DONE BY STOCK INSURANCE COMPANIES IN PREVENTING ACCIDENTS.

To the Massachusetts Employees' Insurance Association.... 57

LETTER NO. 8.—A REJOINDER, TO E. SPENCER BALDWIN, SECRETARY MASSACHUSETTS EMPLOYEES' ASSOCIATION, ON THE SAME SUBJECT AS NO. 7..... 97

LETTER NO. 9.—DANGERS IN REQUIRING INSUFFICIENT RESERVES BY MUTUAL INSURANCE ASSOCIATIONS, WITH SPECIAL REFERENCE TO THE MICHIGAN PLAN.

To Hon. Francis H. Bohlen, Secretary Industrial Accident Commission of Pennsylvania..... 105

LETTER NO. 10.—TO WHOM SHALL WORKMEN'S COMPENSATION LAWS APPLY? WITH A GENERAL DISCUSSION OF SCOPE OF SUCH STATUTES.

To Hon. Harvey E. Garman, Secretary Employees' Compensation Commission of Colorado..... 111

LETTER NO. 11.—REVIEW OF MICHIGAN WORKMEN'S COMPENSATION ACT. NECESSITY FOR RECORD PROOF OF DECLARATIONS OF EMPLOYEES NOT TO BE BOUND BY THE ACT.

To Hon. C. A. Palmer, Commissioner of Insurance of Michigan 122

LETTER NO. 12.—SHOULD NON-RESIDENT ALIEN DEPENDENTS BE AWARDED COMPENSATION?

To Francis Feehan, of the Miners' Union of Pittsburgh, Pa... 132

Digitized by Google

WHICH WILL BE BEST FOR THE WORKMAN?

INEFFICIENT FACTORY INSPECTION AND ITS CAUSES [1]

Address of EDSON S. LOTT, President, United States Casualty Company, New York, at the Annual Convention of International Association of Factory Inspectors, Washington, D. C., 1912

Gentlemen of the Convention:

Senator Sutherland has covered so completely the ground which naturally would be embraced within the topic assigned to me that I feel you would have good cause for complaint if I should stick to my text too closely.

Moreover, the Hon. Cyrus W. Phillips, of Rochester, N. Y., who is to address you, is the father of workmen's compensation laws in this country, and something must be left for him to say on that subject.

While I wish you to know that I am enthusiastically in favor of workmen's compensation laws as distinguished from employers' liability laws, I also desire you to understand that I am violently partial to accident prevention laws and regulations.

First, last and all the time, I would move Heaven, the earth, and some of your apparently immovable legislatures, to arouse them to a sense of the tremendous importance of saving the lives and limbs of the workmen of the country.

[1] The subject assigned to Mr. Lott in the printed program of the Convention was "Workmen's Compensation Laws." This subject was so thoroughly covered by Senator Sutherland and other speakers that Mr. Lott departed from the printed program to discuss a subject of equal if not greater importance.

Digitized by Google

The reformers, the politicians and the common people are crying aloud for compensation laws. I am with them and I will yell as loud as a Comanche Indian, or a college cheer-leader at a football game, for compensation. But if I had the voice of Stentor himself I would screech as shrilly as a fire-engine whistle, or roar like the thunder, to press home to the ears and inner consciousness of every reformer, politician and humble citizen that the expenditure of $3,000 in safe-guarding the life of a skilled workman is economy which is many thousand per cent. greater than paying his dependents the same sum because he is killed.

The prevention of accidents is worth all the compensation for accidents in the wide world. Hence you are engaged in a more beneficent work than those whose duty it is to see that injured workmen are compensated for their injuries.

The difficulty with a good many high-browed reformers is that they carry through life the ideas with which they emerge from college, and never broaden. Do not carry away the opinion that I have contempt for education, because it is not the fact. I admire it immensely and trust that I duly appreciate it, even if I do not possess it. I find one difficulty with many college men, however. After they get their diplomas they seem to have the idea that they are going to sit in a swivel chair, in a palatial office, and watch their educations work for them. Of course, they are greatly mistaken. If they could only be brought to a realizing sense of the fact that the education which they have received is only the preliminary training to prepare them for the many Marathons which they will be compelled to run, when they begin real life, they would advance to the place called Flush Town much more rapidly than they do now.

Well, some of these inexperienced, theorizing, high-browed reformers have the same notions about the laws which they occasionally propose and the legislatures enact. They think that once they get the laws on the statute books these laws

Digitized by Google

will work themselves. Many legislators have the same notion. The reformer proposes and the legislature passes the law, which from high and low receives vociferous applause. Then they often hide the law away in a statute book and forget all about the difficulty and expense of enforcing any reformatory measure which is really worth enforcing. Their enthusiasm for that measure has run down. They must have something new to attract public attention, get their names in the newspapers and win votes, perhaps.

Many of you are factory inspectors. It does not make any difference whether you are good, bad or indifferent inspectors, you are not as efficient as you might be if you received the encouragement and support which men of your profession deserve from the legislatures and high officials of your various States.

Why, in a few of the States, from which I suppose some of you come, they think more of looking after the physical well-being of horses, cattle and hogs than they do of workmen. They spend dollars to prevent injuries to and the spreading of disease among four-footed animals to dimes spent in performing the same service for industrial workers.

The Peace Congress spends millions and builds lofty temples in an endeavor to prevent war, while the worst casualties, calamities and tragedies that usually accompany a war are of everyday occurrence, the year around, with our industrial army.

While these millions are being spent to prevent war with its attendant casualties, the average State factory inspector in this country is drawing a salary of $1,551 per year, and the amount per year expended for the salaries and expenses of these inspectors for the purpose of enforcing the laws enacted for the purpose of preventing accidents to workmen, averages less than ten cents per workman.

According to the returns of the United States Census in 1905, there were 2.175 men killed and 4,402 injured, a total

Digitized by Google

of 6,577, in coal mines alone; while in 1910, 2,838 were killed and 7,830 were injured, a total of 10,788 casualties. This increase of more than 63% in five years was in the face of the fact that the number of men in the coal mines had increased only from 626,035, in 1905, to 725,030, in 1910, or less than 16%.

In Pennsylvania, which is the most liberal of the States in its appropriations for mine inspections, 644 men were killed and 479 were injured in 1905, a total of 1,123 for the year. In the year 1910 there were 601 killed and 539 injured, which was an actual decrease in the number of killed of 43 or nearly 7% and an increase in the number of injured of only 60 or less than 11%. In the number of killed and injured in the five-year period there had been an increase of less than 2%. If the point should be raised that the increase in casualties in all coal mines of the United States was rather apparent than real, because of a more complete system of reports in 1910 than in 1905, it would only make matters worse, for every one added to the casualties in the coal mines in Pennsylvania in 1905 would serve to reduce the ratio in 1910.

It is decidedly startling to find that in Nebraska, the State of the great Commoner, which has 45,000 industrial workers, that there was appropriated only $4,840 for its Bureau of Labor and Industrial Statistics, and that the State employs only one inspector for the whole State, **while it appropriates $55,000 to conserve its live stock.** It is equally startling to learn that Texas, with 650,000 industrial workers, appropriates only $8,600 for its Labor Department or 1.3 cents per capita of industrial workers; or that Louisiana, with 40,000 industrial workers should appropriate only $3,000 for its Labor Department and employs no inspectors.

I have secured the best figures which I could get from different sources concerning the amount spent in the various States in factory inspection, and for the different labor departments, and I have put these figures in a table which I

Digitized by Google

intend to submit should there be any printed proceedings of this meeting. A study of these figures will disclose the contemptible meanness of lawmakers when it comes to making appropriations for the enforcement of labor laws.

I am indebted to the State departments presided over by many of you gentlemen for the figures I have compiled, and I desire to acknowledge my indebtedness to you for your unfailing courtesy and your intelligent assistance to me in the work. I have no doubt that an inspection of these figures will be a revelation to you men, as it was to me.

I only desire to add in this regard that according to the census report for 1909 the value of the products of all factories in the country was $20,672,051,870, of which $8,530,260,992 was added in the process of manufacture. The other $12,141,790,878 represents the cost of the material. Salaries and wages in all of the plants amounted to $4,365,613,000, which subtracted from $8,530,260,992 leaves an added value over and above cost of materials, salaries and wages, of $4,164,647,992. The average number of wage workers in the factories under consideration, according to the census report, was 6,615,046, which divided into $4,164,647,992 gives $629.59 as the amount of clear gain to the wealth of the country to be credited to each wage earner. When, therefore, we consider the small amount which is annually expended by the States in an endeavor to protect these wage earners from accidental injuries, we find that it is infinitesimal in comparison with the wealth which these same wage earners add to the State every year. It is not a square deal.

Go through shops all over the country where dangerous machinery is used and see how little of it is really adequately guarded, even in the States where there are statutes commanding the installation and use of such guards, under penalties more or less severe.

You factory inspectors know how it is.

Digitized by Google

Note the absence of efficient sanitary precautions.

From the thoughtful discussions I have heard on this floor and, I have no doubt, from the intelligent papers which will be read at this convention, much has been and will be advanced in support of my contention. Even those of you who are very successful in your work realize the vast amount you must leave undone.

Why are these statutes not more rigidly enforced?

The answer is easy. The inspectors are few and the employers have too frequently become so familiar with danger as to have contempt for it. The blaze of public excitement is all burned out when the reform law is passed. By the time the inspector gets around almost everybody has forgotten the law. The inspector is not always sure of his ground, and he gets little moral support, in numerous instances. The legislature has not furnished the funds nor the machinery to enforce its statutes, neither has public opinion been sufficiently aroused. The inspector may discover defects, but he has no one, frequently, to whom he can go to "start something" which will make a powerful employer "sit up and take notice." Alone and unaided he is well-nigh powerless, and you inspectors know that you are not always supported by the workmen themselves.

So the few inspectors get around once in a year or two, then make their reports, and then these reports are too often filed away, never to be resurrected. An accident happens. The employer says: "Well, the last time the State inspector was here he did not find anything wrong." Possibly, he is right. Whether he is or not, the recommendations of the inspector are not always complied with.

But where shall we put the blame? Not always on the law itself, **but on the means of enforcing it.**

Of course there are notable exceptions to all that which I have said.

Many employers actively co-operate with the factory in-

Digitized by Google

spectors to the end that their work-places may be made as safe as possible. And, happily, the number of such employers is steadily increasing.

Some States are making more liberal appropriations for the purpose of enforcing the labor laws, and are removing, so far as may be possible, the State labor departments from politics.

The agitation all over our country for workmen's compensation laws, to take the place of employers' liability laws, which latter laws work untold suffering on countless numbers in actual practice—no matter how just they may be in theory—is becoming a mighty factor in the prevention of accidents.

Hence I counsel you to take heart in your work for humanity; to believe that the time is coming—is near at hand—when you will receive more adequate pay for the labor you are performing; to believe you will soon have back of you an aroused public support. And I suggest that you draw comfort from the thought that your calling is one of saving lives—precious human lives.

Take the figures which I have prepared[1] back to your home States and tell your people that when they "sink the axe at the root of the tree" of this evil a little deeper, they will discover that they will be wiser economists, greater reformers and better humanitarians if they will apply a few ounces of prevention, where most needed, thereby saving to themselves and their industries and the individual workers many dollars of unnecessary "compensation," and at the same time saving to the community at large many, many useful human lives which will otherwise be needlessly sacrificed on the altar of commercialism.

And may I say to you, in closing, that through many years of personal contact I have found the average employer keenly and sympathetically alive to the welfare of his employees, aggressively in favor of anything and everything intelligently

[1] See table on page 9, and note on pages 10 and 11.

Digitized by Google

calculated to benefit them, and possessing greater knowledge of their needs and how best to serve their needs than any other class of citizens among us; and that the best way on earth to induce an employer to do something to prevent accidents to or conserve the health of his employee is to convince him that the thing which you recommend will accomplish that which you claim for it. In support of my claim, I point out to you that the employers of this country are among the foremost in support of workable workmen's compensation laws and sensible accident prevention and health conservation laws.

Another thought and I am done. Please get in touch with and co-operate with, in your splendid work, the inspectors of casualty insurance companies. Many of them come from your ranks. All of them are in full sympathy with that which you are trying to accomplish. Between you, pulling together, many a life of a workman will be spared to his loved ones—and the knowledge of that fact should sustain you in those days when your duties seem never ending and your thanks far between.

Digitized by Google

TABLE REFERRED TO IN FOREGOING ADDRESS—*See next page for note*

State.	Number of Industrial Workers.	Amount Appropriated for State Labor Department.	Amount Appropriated Per Worker, Cents.	Number of State Inspectors.	Number of Workers to Each Inspector.	Pay of State Inspectors: Each Per Annum (Average).	Pay of State Inspectors: Total All Inspectors.	Pay of State Inspectors: Per Capita of Workers, Cents.
Arizona	6,441	None	....	None	.....	.....	.....	0.
Arkansas	75,000	$25,000	33.3	1	75,000	$2,000	$2,000	2.6
California	115,296	35,500	30.7	6	5,917	1,565	9,390	8.1
Colorado	100,000	30,000	30.	10	10,000	1,380	13,800	13.8
Connecticut	209,186	13,000	4.3	5	41,837	1,500	7,500	3.6
Florida	57,473	None	....	None	.....	.....	.....	0.
Georgia	136,000	6,000	4.4	None	.....	.....	.....	0.
Illinois	771,584	125,550	16.2	42	18,371	1,372	57,600	7.4
Indiana	271,077	47,000	17.3	18	16,171	1,200	21,600	7.9
Iowa	118,000	21,350	18.1	5	13,600	1,560	7,800	6.6
Kansas	55,751	23,720	40.7	8	6,969	1,088	8,700	15.6
Kentucky	46,668	5,000	10.7	3	15,556	1,113	3,400	7.2
Louisiana	40,000	3,000	7.5	None	.....	.....	.....	0.
Maine	79,995	8,000	10.	3	26,665	.....	3,850	4.
Maryland	140,985	18,000	12.	8	17,873	900	7,200	5.1
Massachusetts	649,727	45,500	7.	18	36,096	1,500	27,000	4.1
Michigan	359,752	40,000	11.1	22	16,353	1,000	22,000	6.1
Minnesota	263,937	32,900	12.4	17	15,526	1,206	20,500	5.6
Missouri	213,641	77,100	36.1	15	14,243	1,481	22,200	10.3
Montana	30,000	29,800	99.3	7	4,286	2,315	16,200	54.
Nebraska	69,509	4,840	6.9	1	69,509	1,500	1,500	2.1
New Hampshire	79,975	6,200	7.7	1	79,975	1,600	1,600	2.
New Jersey	292,275	70,500	24.1	22	13,285	1,500	33,000	11.3
New Mexico	4,143	None	....	None	.....	.....	.....	0.
New York	1,200,000	240,000	20.	90	13,334	1,431	128,800	10.7
North Carolina	175,000	5,500	3.1	None	.....	.....	.....	0.
Ohio	513,106	80,440	15.6	33	15,549	1,200	39,600	7.7
Oklahoma	75,000	22,500	30.	2	37,500	1,500	3,000	4.
Oregon	28,750	17,200	59.8	4	7,187	1,500	6,000	20.8
Pennsylvania:								
Factories	995,804	105,384	10.6	41	24,288	1,500	61,500	6.2
Mines	355,991	219,000	61.5	47	7,554	3,000	141,000	39.6
All	1,351,795	324,384	23.9	88	15,362	2,300	202,500	14.9
Rhode Island	162,507	23,000	14.1	5	32,501	1,500	7,500	4.6
South Carolina	69,460	3,500	5.	2	34,730	1,200	2,400	3.4
Tennessee	73,840	2,400	3.2	1	73,840	1,500	1,500	2.
Texas	650,000	14,989	2.3	4	162,500	1,600	6,400	.9
Utah	32,000	7,500	23.4	1	32,000	2,000	2,000	6.2
Vermont	32,788	None	....	None	.....	.....	.....	0.
Virginia	128,000	9,800	7.6	2	64,268	2,000	4,000	3.1
West Virginia	119,000	44,900	37.7	13	9,154	1,846	24,000	20.1
Wisconsin	221,000	80,000	36.2	14	15,786	1,149	16,080	7.2
Thirty-nine States	9,018,661	$1,544,073	14.0	471	19,148	$1,551	$730,620	8.1

Inefficient factory inspection and its causes

The tabulation of the statistics of industrial inspection in the various States upon which the foregoing figures are based does not pretend to include all the industrial workers in the States. It has been impossible to obtain adequate statistics from Alabama, Delaware, Idaho, Mississippi, Nevada, South Dakota and Wyoming. The omission of these statistics, however, does not affect the integrity of the inquiry. As a matter of fact, inclusion of the figures from these States undoubtedly would make the general showing worse, since it is probable that they either have no system of inspection or have developed it only slightly. Reports of the Bureau of the Census show that in these seven States, in 1909, there were employed 160,716 wage-earners in manufactures alone. The figures from North Dakota and the State of Washington are omitted, because they do not lend themselves readily to the comparisons here attempted. In North Dakota, as a matter of fact, there is no system of inspection, but under the Pure-Food Law an agent is authorized to look into the sanitary conditions of plants where food products are prepared. In the State of Washington there is a rather elaborate system of inspection, but the State does not pay for it. The salaries of the inspectors are paid out of fees collected from the owners of the plants inspected. For similar reasons, the figures relating to Missouri, which have been included in the tabulation, might well be excluded as unfair because they are misleading in so far as they relate to inspections in factories. The State actually makes money out of its Department of Factory Inspection; for although it allows an expenditure of $15,000 by the department, there is a system of fees under which the collections exceed the $15,000 expenditure. The excess varies, but as late as two years ago the Department of Factory Inspection turned $5,000 into the General Revenue Fund after paying all of its expenses. Missouri appropriates $42,500 a year for its Department of Labor, which actually does little for industrial workers, since a big share of its expenditures are made in the gathering of statistics relative to the amount of State products and live stock, corn and other commodities. Still another item included in the $77,100 set down as appropriated by the State, is for the maintenance of Free Employment Bureaus which have nothing whatever to do with industrial inspections.

In the case of some of the other States it has been found necessary to exclude certain classes of workers from the tabulation because of incomplete data or for other reasons. Thus no account is taken of workers in mines in Arizona, Kentucky, Michigan, Minnesota and Tennessee. In Michigan and Minnesota mine inspections are made not by the State but by the counties in which the mines are located. The figures from Maryland and Ohio refer only to factories and workshops. The figures

Digitized by Google

from New Jersey and Virginia refer only to these workers of all classes who are actually subject to inspection. The 1,200,000 workers in New York State include only those employed in factories, mills and workshops. There are employed by the State a mine inspector, two inspectors of tunnels in course of construction under compressed air, and eight mercantile inspectors, but data are not sufficiently complete to indicate the number of workers affected by these inspections, and for this reason no account is taken of them. It thus results that the State of New York is credited with a total appropriation of $240,000 a year, whereas there is an aggregate appropriation for all purposes of $380,000 for the current year. The $240,000 is the amount actually devoted to the 1,200,000 workers enumerated in our tabulation. Other similar exceptions are made, but in no case do they affect the fact that the figures are fairly representative. It has been aimed to make a comprehensive statement of conditions throughout the country rather than to bring any indictment against an individual State. In the same spirit of fairness, it has been thought best to exclude from the figures relating to New Jersey two men drawing salaries as inspectors, but who actually devote all their time to clerical work in the Department of Labor. New Jersey actually employs twenty-four State inspectors, but cnly twenty-two of them ever do any work of inspection. Similarly, the State of Colorado appoints one inspector of boilers, but his salary is paid by the collection of fees.

If exception is taken to the fact that the per capita noted in the last column of the tabulation represents only the salaries of the inspectors, and that no account is taken of their traveling expenses, it may be stated that the allowances in this column have been made so liberally as probably to more than offset any such item. In all cases the salaries are given as for constant work through the whole year. It is to be doubted whether all inspectors are so engaged constantly in any of the States. Some of the States, as Connecticut, for example, pay inspectors $5 a day only when working, and the allowance of $1,500 a year salary for each individual is excessive. In New Hampshire all factory inspections are made by the Commissioner of Labor in addition to his other duties, but his whole salary of $1,600 a year has been charged to the cost of inspection. In Maine the Commissioner of Labor and his deputy make inspections in connection with their other duties. Their full salaries have been charged against the cost of inspection in the tabulation.

Digitized by Google

LETTER NO. 1

State Insurance and its Weaknesses. Misunderstanding as to the German Plan in its Application to America and Especially to the Schemes in Washington and Ohio

To Hon. John T. Clarkson, Chairman Employers' Liability and Workmen's Compensation Commission of Iowa.

New York, May 21, 1912.

My dear Sir:

I acknowledge the receipt of your most courteous letter of the 15th inst. and am very glad indeed of the opportunity to answer your question, as best I can.

You ask

> **"What objections there be . . . to the State insurance plan, that is the plans now in force in Germany, Washington and Ohio . . . : I do not mean the details of their plans, but the payment of the premiums in the way of a tax."**

In the first place, German "industrial accident compensation insurance" is not State insurance, and premiums under that plan are not payable in the way of a tax. It is compulsory mutual insurance of employers in trade associations, generally on a **deferred assessment** basis, and while subject to lots of State regulation the associations are managed by the employers and not by the Government. This plan has many advantages and many disadvantages; but nothing like it has been suggested in America,—the Washington and Ohio plans do not faintly resemble it, and it is not State insurance.

These facts must be emphasized, because in the advocacy of State insurance in this country the advantages of the German industrial accident law are cited in its favor, whereas State insurance misses those advantages completely.

Digitized by Google

The only compulsory State insurance law in Europe is that of Norway—although in some other countries the Government through an insurance office sells accident insurance in competition with private insurers.

I will, therefore, present very briefly my principal objections to the Norwegian State insurance and to the law of Washington and Ohio:

In Norway **the State has itself** assumed the liability for compensation for industrial injuries, and taxes employers, at rates graded according to rough guesses at the risks in their respective trades, to maintain a fund (one single fund) out of which the State makes the compensation payments. Government officials do everything—manage the fund, fix the rates for particular employers, investigate claims and determine awards. There is no "come-back" on the employer after he has paid his premiums; if the premiums are not sufficient **the State** loses, and the **tax-payers generally** must pay the deficiency. This has happened, when the deficiency was about $100,000—which for a small, poor, non-industrial country like Norway meant as much as a million or two would for the State of New York. Norway is a thinly populated country with widely distributed petty industries, under which conditions this scheme has some advantages; and I don't know—none of our people reading Norwegian literature currently—that there has yet been any strong outbreak of dissatisfaction in Norway. But there are serious objections to this scheme for an **industrial** State:

1. It has resulted in a "flat" rate for all in each trade regardless of the comparative degree of risk in particular establishments. This means that the individual employer is freed from any economic inducement to prevent accidents, since his competitors must share with him pro rata any loss thereby incurred; and the better employers are penalized by being made to pay a large share of the losses of their more careless and more poorly equipped competitors.

Digitized by Google

2. Through indifference and a desire for apparent economy in management no progress has been made in fixing rates fairly for the respective trade classes. Some trades have been taxed double their risk cost, while others have been favored with rates 50% below cost. And the individual employer is absolutely at the mercy of politicians as to which of several trade classes he shall be assigned and consequently as to which of several widely different rates he shall be taxed; and this is especially true when any attempt is made to specially rate individual risks.

3. The allowance of claims and the adjustment of awards are absolutely in the discretion of administrative officers. Employers have nothing to say about the management of the fund and no check at all upon the determination of claims against it. They merely foot the bills. Experience everywhere in Europe shows that this practice results in great laxity in precautions against fraud and imposture and in a tendency on the part of officials to use their discretion to distribute political favor or charitable relief. Public officials have no pecuniary interest in the fund which they are administering. On the contrary, they are inclined to dispose of such fund as their political interests may dictate.

Without going into details, then, this plan is simply a scheme to avoid all the difficulties of adjusting private rights between employers and employees by turning over the whole matter of compensation to a political bureau with power to tax employers and to dispense the money thereby obtained, as it pleases. If this is a good practice in regard to compensation why should not all other private rights and liabilities be adjusted in the same way? The answer is, because that would be complete socialism. So also is this plan socialism—partial, but pure.

Now as to the Washington and Ohio plans.

The Washington law is subject to all the objections to the Norwegian law—with one qualification—and, in addition,

Digitized by Google

to another and a most serious objection. The qualification is that under the Washington law employers are not at the mercy of the State insurance officers as to their rates, the rates being fixed by the law. But the rates are fixed "flat"—that is, they are fixed so as to be unfair.[1] For you must realize that the difference in risks between two establishments in the same trade is often far greater than the difference between average risks in different trades. The injustice of putting the bad risks and the good risks on the same plans cannot be overemphasized. And as you undoubtedly know all experts in industrial safety insist that it has a very bad effect in increasing accidents.

The additional objection to the Washington law is this: The "compensation law" in its simple form (as in England

[1] The Washington Workmen's Compensation Act is very deceptive, unless all parts are read together. Section 4 contains a schedule of what appear on the face of the Act to be the **maximum premiums** which can be collected from employers. The same section contains a further provision that the Legislature may change the rates. But the joker is the sentence in the same section which would seem to have been added as an afterthought, reading as follows:

> "If, at the end of any year, it shall be seen that the contribution to the accident fund by any class of industry shall be less than the drain upon the fund on account of that class, the deficiency shall be made good to the fund on the 1st day of February of the following year by the employers of that class in proportion to their respective payments for the past year."

So if a catastrophe happens in a particular industry all the employers engaged in that industry can be called upon on February 1 following the accident to replenish the fund, and likewise on each succeeding first of February. Where there are a limited number of employers in a particular industry this would be a serious matter.

The rate of premium therefore prescribed in the schedule in the first part of section 4, contains, in practical effect, no limitation whatsoever on the amount which the employer may be called upon to pay, whether or not the rate is changed by the Legislature.

Digitized by Google

and in the majority of foreign countries) makes the employer an **insurer** of his workmen. That liability exposes almost every employer to constant peril of financial ruin, unless at a reasonable rate he can **reinsure** and **distribute** his risk. Now, what the Washington law does is to make each employer not only an insurer of his own workmen but also an insurer of all the workmen of all his competitors in the same trade, thus multiplying his risk; and it then taxes him a heavy premium as if for insurance, but does not insure him—does not indemnify him—does not adequately distribute his risk. Take the case of the Chehalis disaster, described on page 11 in a pamphlet by Senator Graves of Spokane which I enclose herewith. What would the Dupont Company (therein referred to as "A") have got in return if it had paid its $14,400 premium into the powder mill insurance fund? Indemnity? Not a bit of it. A probability of adequate return in compensation paid to its injured workmen? Nothing like it. It would merely have paid that money into a fund

to be
dispensed according to
the unsupervised discretion of
a few low-salaried State officers
unversed in insurance

and would still have REMAINED LIABLE for at least 85% of any deficiency in compensation due by the fund to all workmen in powder mills in the State of Washington.

To procure indemnity or to distribute its risk the Dupont Company must still go out and buy real insurance in the open market, under the same conditions as—but for a much larger risk than—before the adoption of this fancy scheme of so-called State insurance.

Whatever may be said in criticism of the State insurance scheme of Europe at least none of them has this defect, but all of them either provide indemnity or furnish adequate distribution of the risk.

Digitized by Google

As to Ohio, I don't know where to begin. It seems absurd to call its law either a compensation or an insurance law. Under that law an employer, whether he elects to insure or not to insure in the State fund, remains liable for damages pretty much as before. If he elects to insure he simply pays his good money over to a State Board to be dispensed as political exigencies may dictate. No methods of insurance are prescribed in the law, the Board may fix rates as it chooses, maintain or dispense with reserves as it chooses, and may make awards against the fund to whom it chooses and upon such evidence as it chooses—**without right of appeal** in any one **except the claimant**—the injured workman.

All that an employer can do, if dissatisfied with the rate given him or with the management of the scheme, is to exercise his election and drop out. It is true that the employer is discharged from all disability for compensation if he insures; but he is discharged from but little of his pre-existing liability for damages.

On the other hand, this fund does not insure **compensation** to the workmen. The State **assumes no liability to pay the compensation and does not guarantee its** payment; as said before, the employer is discharged from all liability for compensation by insuring; therefore **the insurance fund alone is liable.** But with the uncertainties respecting the methods and success of the Board in collecting and maintaining that fund there is every chance that it may become exhausted. Then from what source would the pensions of injured workmen who have received compensation awards be paid?

In short, this law **neither protects the employer nor insures compensation to the workmen.**

I have said about enough to show that the Washington and Ohio plans are merely defective imitations of the Norwegian plan. For a fuller presentation of the dangers of that Norwegian plan than can be presented in a letter I would re-

Digitized by Google

fer you to the enclosed brief of Mr. Sherman, submitted to the Federal Commission, and also to the enclosed pamphlet by Mr. Graves, above referred to.

Against the foregoing Utopian schemes why not consider the English law? Although some of its minor details may be imperfect, as a whole it is successful and gives satisfaction. It is the model which is being copied by the English colonies and by the Federal Commission in its bill. In all the agitation for sickness and old age insurance in England there has been no disposition to change it; for it covers the subject of work-accidents satisfactorily. Two Laborite members of Parliament testified before our New York Commission in 1910 that labor is satisfied with it; (but I am informed that the socialists among them are agitating for State insurance of everything, including accident compensation). As for employers, no English employer with a well equipped and conducted plant, would listen to a suggestion that the bureaucratic scheme of Norway—or of Germany either—should be inflicted upon him.

In regard to your gracious invitation to send a representative before your Commission, at its June 4th meeting, I regret to be obliged to inform you that this will be impossible, for the reason that the various men connected with the United States Casualty Company are all specialists in particular lines of the business, and for this reason I should have to send three or four men if I sent any.

I should very much like to appear before your Commission myself, and would certainly do so except for the fact that on the date you name I have agreed to address the National Convention of Factory Inspectors in Washington, D. C.

* * * * * * *

I should like to talk the question over with you personally at any time and at any place agreeable to both of us.

Shall you be in New York this summer?

Digitized by Google

To Hon. John T. Clarkson

Again thanking you for an opportunity of giving you my views, and offering to co-operate with you in any way within my power, and placing all the records of this company at your disposal, I remain,

Most truly yours,
EDSON S. LOTT,
President.

Digitized by Google

LETTER NO. 2

Prevent Monopoly in Workmen's Compensation Insurance by Permitting Free Competition

To Hon. John T. Clarkson, Chairman Employers' Liability and Workmen's Compensation Commission of Iowa.

New York, July 3d, 1912.

Dear Mr. Clarkson:

I thank you for your letter of June 19th, re the State collecting and disbursing a workmen's compensation fund.

I quote from your letter as follows:

> " . . . the defect complained of (that of charging each employer in the same industry a 'flat' rate) might very readily be overcome by placing the money collected from each and all of the industries into a general fund and tax the industry according to the hazard thereof, based upon experience, rated within reasonable bounds by an actuary so as to determine the rate that each particular industry should pay according to the hazard, experience and carefulness upon the part of the employer with reference to the management of his business and the interest taken therein by way of supplying safeguards for workmen while engaged in their employment, leaving the rate to be adjusted from time to time as conditions and experience would disclose the necessity and requirements therefor."

It seems reasonable to assume that if any workmen's compensation law is administered by a competent force in field and office and **is left alone long enough** and insurance under it **is carried long enough** so that the experience will be sufficient to be reasonably reliable, each establishment **could** be rated approximately according to its individual

Digitized by Google

hazard. But after sixteen years' experience in Norway there is no sign of any approach to that condition.

How will you provide for the "catastrophe" hazard under such a plan?

A few years ago a boiler in a Massachusetts factory burst and killed some 190 workmen. At $3,000.00 each, this would mean a loss of some $570,000.00.

A few years ago a department store in Albany, N. Y., collapsed and killed some 90 clerks. At $3,000.00 each this would mean a loss of some $270,000.00.

You are doubtless familiar with the recent burning of the Triangle Shirt Waist Factory in the City of New York causing the death of hundreds of workers.

I have been taught that the essential principles of all true insurance are

THE LAW OF AVERAGE

and

R-I-S-K D-I-S-T-R-I-B-U-T-I-O-N.

Stock liability insurance companies do business all over the entire country—they aim to get enough insurers of each class so that the law of average will apply, and their risk will thus be equalized. Thus each class stands on its own merit.

You propose "placing the money collected from each and all of the industries into a general fund and tax the industry according to the hazard thereof, based upon experience, rated within reasonable bounds by an actuary so as to determine **the rate that each particular industry should pay** according to the hazard, experience," etc.

If by "each particular industry" you mean **each particular insurer,** then your plan contemplates nothing more nor less (I respectfully submit) than that each insurer shall himself carry his own insurance and pay his own losses—**plus the cost of your administration.**

If by "each particular industry" you mean **all the estab-**

Digitized by Google

lishments in a given industry, then I respectfully submit that another difficulty confronts you, as follows:

I take it that your State-created mutual insurance institution is to be a sort of clearing house. That each of the many subscribers to the clearing house is to pay his comparatively little into it, and that it will gather up the many little payments into piles and pay over these piles to those who meet with misfortunes covered by the by-laws of the clearing house—the clearing house to charge a toll for the work, enough to cover the expenses.

You will operate in the State of Iowa only. There are many branches of industry in your State embracing only a few establishments. Under your plan will not such establishments be insuring themselves even though they become subscribers to your association? There will not be enough industries, of some classes, so that the law of average can apply—so that the risk can be properly distributed. What will happen in the case of a conflagration causing the loss of many lives—such as does happen now and then?

Stock liability companies have "shock absorbers" in the way of reinsurance treaties, in addition to their risk distribution.

Stock companies insure against loss, for a fixed and definite premium, pledging all their assets for the payment of the loss.

You act as a clearing house for your subscribers, and they pay their own losses—if they can.

When the subscribers to the clearing house are only a few (as will be the case with some industries), are they really "insured" in the real sense of that word?

And does this not apply, in a greater or lesser degree, to your entire plan?

Permit me to add right here that some two score stock insurance companies have just completed a "shock absorber" arrangement to take care of the "catastrophe"

Digitized by Google

hazard, whereby each such company will reinsure its Massachusetts compensation risks with each such other company, so that no one such company will stand to lose more than $25,000.00 as the result of any one accident in that State. It is proposed to create a fund of one million dollars for this "catastrophe" hazard.

When you are planning a scheme whereby you can, through your "**actuary, determine the rate that each particular industry should pay according to the hazard, experience and carefulness upon the part of the employer with reference to the management of his business and the interest taken therein by way of supplying safeguards for workmen . . . leaving the rate to be adjusted from time to time as conditions and experience would disclose the necessity and requirements therefor,**" what will you determine the future rate to be for the employer who presents you with a loss of half a million dollars as the result of one accident?

What rate will you give a mine after it has killed a score or two of miners?

And if your plan is to make each risk stand on its own bottom, what right have you to use "money collected from each and all of the industries" of your State with which to pay a catastrophe loss in one industry?

I further quote from your letter as follows:

> "As a means of overcoming that objection (political control) would not the following fundamentals be feasible, reasonably well safe-guarded by statutory enactment:
>
> "First: State control and distribution of funds: All industries taxed according to the hazard of the employment based upon experience, conditions of the works, ways and means with reference to safety appliances, and care taken by the employer to protect his workmen and the money collected paid into one fund to be administered by a Commission as hereinafter mentioned. A careful, conscien-

Digitized by Google

tious, expert actuary employed to prepare schedule of rates to create the fund from which workmen would receive payment for injuries while in line of duty.

"Second: State administration. Appoint a Commission say of three from among the employers, appointment to be made by the members of the Supreme Court who are as far removed from political influence as may be, the Commission to have the exclusive duty of payment of the claims to injured workmen; the Commission to have the power to appoint such reasonable number of deputies as may be necessary for the purpose of examining the facts relating to the claim. The fact that this Commission would be composed of employers exclusively would be an incentive upon their part to see to it that fraud was not practiced and that no one would be paid any claim to which they were not entitled.

"Third: Appoint another Commission say of three persons, to be appointed by the Governor and approved by the Senate, which would have charge of all the duties ordinarily imposed upon the Department of Labor and Factory Inspectors, empowering the Commission to employ such reasonable number of assistants as may be necessary to properly perform their duty. In addition thereto to make this Commission a Board of Arbitration when disputes may arise between injured workmen and the Commission having charge of the payment of the claim, giving either party the right to appeal from the Board of Arbitration or Industrial Commission to the courts."

Even if your plan were feasible in all other respects you would need the whole time and undivided attention of "a careful, conscientious, expert actuary," and you could not obtain the services of such an actuary as you describe unless you paid him at least $25,000 per year, and you could not get an actuary who could fill the bill, under your plan, for that price. Your State will never consent to pay that salary to any one man, anyway. And in addition that actuary

Digitized by Google

would need the assistance of a corps of high-priced, technical assistants, both in field and office, to be selected regardless of politics.

You appear to believe that there is something in my contention that any kind of "State insurance" will be more or less dominated by political considerations, for you propose to have one of your commissions appointed by your Supreme Court, for the reason that it is "as far removed from political influence as may be." However, you propose to have created another Commission, with power to overrule your Supreme Court-appointed Commission, and this latter Commission is to be "appointed by the Governor and approved by the Senate." You further propose that if your Governor-appointed Commission overrules your Supreme Court-appointed Commission, a court of competent jurisdiction can overrule your Governor-appointed Commission.

I respectfully point out that your plan is not removed from the realm of politics by your suggestion that your minor Commission shall be appointed by your Supreme Court, when at the same time you leave your major Commission to be appointed by your Governor—a political proposition. In fact you are almost exactly copying the least satisfactory features of the German system.

I further respectfully suggest that your plan would encourage instead of discourage litigation. The German experience proves this. With so many chances to get a decision reversed, the lawyers would thrive; and the work-people would become dissatisfied. You and I will agree that the one great purpose to be gained by workmen's compensation laws as distinguished from employers' liability laws is to discourage and avoid litigation between employer and employee.

May I also point out to you the practical impossibility of State employees resisting the "pressure" of influential employers when it comes to making insurance rates whereby

each of two employers in the same town engaged in the same general work shall be given a different rate—one very much higher and one very much lower than the basic rate? Town assessors would have a comparatively easy job, and you know the constant hue and cry all over the land for "equalization of assessments."

You propose that the Commission appointed by the Supreme Court shall "have the exclusive duty of payment of claims to injured workmen," the Commission to have power to "appoint such reasonable number of deputies for the purpose of examining the facts relating to claims as may be necessary." My judgment is that it would be "necessary" to provide a place for many a deputy who would otherwise go unrewarded for his political activities, and that such deputies would not have a fair show for the exercise of intelligent judgment, because of their political affiliations, even if they were well schooled in the art of detecting fraud—big and little. Employees of private insurance companies hold their positions on their merit alone, which is not always the case with State employees.

You say also that inasmuch as this Commission would be composed of employers exclusively, there would be an incentive on their part to "see to it that fraud was not practiced and that no one would be paid any claim to which he was not entitled."

Are you going to have employers to do all this while also attending to their own business? **Impossible.** Or are you going to have them divorce themselves from their own business and give their whole time and undivided attention to their new work? It certainly would need all their time. And are they to be paid commensurate salaries? In any event, do you think they would prove superior to the officials of private insurance companies who are selected because of their especial fitness for the work in hand—and not because they have heretofore spent their time in entirely different

Digitized by Google

lines of human endeavor? If they are to depend upon the deputies appointed "for the purpose of examining the facts relating to the claim," must they not depend upon the judgment of the deputies? Would such deputies be superior to the men employed by private insurance companies? Moreover, how could your Commission of employers "see to it that fraud was not practiced," **simply because they were employers,** when their decision can be overturned by a Commission "to be appointed by the Governor and approved by the Senate"?

Why upset your "Department of Labor and Factory Inspectors"? Certainly that department, to be efficient, must be free from the administration of the compensation law. Your present **Department of Labor and Factory Inspectors** may be inefficient. I do not know. I assume that it is better than your State deserves, for I note that your State is as niggardly in its appropriation for the use of your State Labor Department as the average State.

* * * * * * *

Permit me to answer all the questions you have raised in your letter by asking you one, Indian-like:

How would your people be any better off by tying up a State insurance scheme with a workmen's compensation law, than would be the case if you do not link together these two different things?

If you cause the policyholders to pay the cost of running your State Insurance Department, the expense to them would be greater than would be the case if the insurance is conducted by private companies. If you make the taxpayers at large pay the cost of running your State Insurance Department, it would be unfair to those taxpayers who are not policyholders.

* * * * * * *

Do you not think your employers will have enough on their hands simply to take care of any workmen's compensa-

Digitized by Google

tion law which you may enact, without at the same time introducing the uncertain element of State insurance?

If you advertise the fact that the Commission to be appointed for the purpose of seeing that fraud is not practiced by injured employees, is to be composed exclusively of employers, will you not meet with strong opposition from labor unions? And does not the German experience give them reasonable ground for such opposition?

The only reasonable argument which I can see in State insurance over private insurance, is that the State has greater resources than the private companies, and that if the State actually goes into the business of insurance and pledges its credit for the payment of all claims, then—of course—the employee might believe that he would be surer of his compensation when it was once established. But such a guarantee by the State is out of the question. Moreover, if your State should enact an intelligent reserve law for companies writing compensation insurance, no doubt could be raised concerning the security they could offer.

I recommend a reasonable workmen's compensation law, and I recommend three forms of insurance in connection with such a law.

First. Permit the employer to carry his own insurance, if he can satisfy your Commission that he is solvent and likely to remain so. Permit a court of competent jurisdiction to commute any compensation awarded, and to require the employer to deposit the commuted value of the award in a trust company for the benefit of the injured employee or his dependents or to furnish a bond guaranteeing the payment of the compensation—in the discretion of the court.

Second. Permit the formation of mutual insurance associations, requiring them to maintain the same reserves as are required of stock insurance companies; and oblige such associations to guarantee in their policies the solvency of each of their assured, so far as compensation to employees

for injuries is concerned. Also make assessments against policyholders' preferred claims.

Third. Permit anyone to insure in a stock insurance company, duly authorized by your Insurance Department to do business in your State, and oblige such companies similarly to guarantee in their policies the solvency of their assured.

Beyond this, I would make the injured employee a preferred creditor in the same manner as a workman is now a preferred creditor for his wages. Very few employers fail to the extent of being unable to pay their preferred creditors, and under my plan the mutual insurance associations and the stock insurance companies would have to pay if the employer did not.

By following my plan you would have:

First. Each injured employee entitled to compensation would be a preferred creditor, as respects himself and his dependents.

Second. The court would have the power to guarantee the payment of compensation awarded, by causing the employer to either immediately put up a sufficient amount of cash to provide for the compensation as long as it was payable, or to give a bond.

Third. Back of the employer who insured would be the strength of a mutual association or the resources of a stock company.

Fourth. In the case of the insolvency of the employer, any compensation awarded would be payable directly by the stock insurance company or the mutual insurance association.

Fifth. Insurance rates would be kept down by competition between stock companies, by competition between mutual associations, and by competition between stock companies and mutual associations; and if anyone found the rates of the stock companies too high and the rates of the mutual

Digitized by Google

associations too high, he could carry his own insurance, if his financial status would permit.

By my plan you would do away with creating more political machinery and more politicians in your State affairs.

I respectfully suggest that the plans of State insurance which are advocated here and there in this country are nothing more than mutual insurance associations **conducted by State officials.** The **guarantee** that enough will be collected to meet the losses is worth no more than the guarantee given by any privately conducted mutual insurance association. In the one case the State officials can assess, under the other an association manager can assess. In either event it is only the assets on hand and the legal liability of policyholders which guarantees the payment of compensation.

So far as the assured is concerned, some so-called State plans have the unfair advantage over the ordinary mutual association, in that the taxpayers at large pay the expenses which should be borne by the employers only—a wrongful distribution of the cost. However, this unfair advantage is more than offset by the fact that the employers or policyholders have no voice in the management—when the organization is run by State officials.

In the ordinary mutual insurance association, the policyholders elect their own directors and the directors in turn elect the officers. If the officers are incompetent or extravagant the remedy lies with the policyholders themselves. In other words, they control the situation. They can have a conservative, strong mutual insurance organization, exercising sanity in respect to reserves, or they can have as cheap an outfit as they will stand for.

Under the State system, so called, the policyholders must take what is given to them in the way of management and give what is demanded of them in the way of premiums. The management may be competent or the reverse. It may or may not be conducted as a well-managed private mutual

insurance association is conducted, and it may change with every change of State administration. It may have at heart the interests of the policyholders or those to whom compensation is paid, or its main object may be building up the political organization of which its officers are members.

For my part, I do not see how prudent manufacturers can favor the organization of a mutual insurance association **run by State officials,** rather than a mutual insurance association **run by themselves.** Nor do I see why employers should choose to leave their own regular occupations to engage on the side in a new and highly technical occupation—the insurance business.

In any event, why should a hard-headed employer voluntarily go into a scheme which presents the most undesirable feature of insurance—policyholders' liability—without even the satisfaction of having a voice in the management of the scheme? If the employers themselves could not properly run a mutual organization, is it probable that politicians could do so?

* * * * * * *

It seems to me that any plan of "State insurance" (so called, but of course not real State insurance) is simply a precarious device to avoid the difficulties and perplexities of adjusting private rights between employers and their workmen, by consigning the whole matter of compensation to a political bureau with power to assess employers indefinitely and to distribute the money thereby obtained as the officials of such political bureau please.

Of course I have no means of knowing your private opinion of the relative value of work done by State-appointed employees and of work done by employees working for private interests; but I believe that you will subscribe to the statement that the State never can successfully compete with private enterprise in this respect.

Suppose the State of Iowa does go into the business of

Digitized by Google

compensation insurance. If all the premiums received by the State are not sufficient to pay all the losses, who will pay the difference? The taxpayers at large, irrespective of whether or not any particular taxpayer is insured? Would this be just to the taxpayers? Or if all the premiums received by the State are not sufficient to pay all the losses, will the employers who are insured be assessed from time to time for more premiums? If so, what about the employer who pays an initial premium and then goes out of business, becomes insolvent or dies,—who makes up for him? How will Iowa take care of the calamity loss if 100 (or 20) employees are killed in one accident?

What advantage has the State over a private corporation as respects management expenses, unless it be in the saving of agents' commissions? Conceding that the State can do away with agents' commissions, will it not cost just as much to send competent men to employers to arrange the insurance, to inspect establishments so as to determine rates, etc., etc.?

There are numerous classifications for employers' liability insurance, each taking its own rate according to its hazard. There are many kinds of policies, according to the needs of the insured. The agent who solicits the business must understand the hazard to be covered and the needs of the insured, that he may have issued for him the particular policy or policies that will give him the protection he needs and for which he pays. The underwriter at the home office of the insurance company personally inspects each application of the insured and each policy issued, to see that they are in order. For complicated risks much correspondence usually ensues before the policy is in correct form.

The stock company underwriter has authority to adjust everything to fit the needs of each insured. How would the State arrange this?

And who will audit for the State the payrolls of the as-

Digitized by Google

sured? And who will settle disputes over the correctness of the audits?

When the State has fixed its premium rates, how will it know whether they are adequate until **all** the claims for accidents happening while the insurance was in force have been settled or outlawed?

And will the actuaries, underwriters, claim adjusters and clerical force all change every time the State changes its politics? Will a big employer of labor with a big political following be permitted to name one of the underwriters, and will such underwriter feel under obligation to name a low rate to such employer?

Will the State be able to get as competent managers and employees as the insurance companies?

Aside from agents' commissions, is it reasonable to suppose that the State can conduct the business as economically and as efficiently as insurance companies? Will salaried State negotiators cost less per dollar of premium than company commission agents?

When an employer insures against accidents to his employees, he usually also insures against accidents to other persons—the public. The owner of an establishment may be liable for damages to any person, **whether an employee or not,** who sustains a bodily injury on or about his premises. The prudent owner takes out **public** liability insurance as well as **employers' liability** (or workmen's compensation) insurance. Both hazards are often covered in one policy. The two hazards are closely interwoven. Will the average policyholder want to split his insurance, giving one piece to the State and the other piece to a private company?

It is, I assume, very doubtful whether you will finally actually advise your State to go into the business of insurance. You certainly will not advise your State to insure steam-boiler, elevator, teams, vessel, theatre, landlord, automobile and kindred lines. Such insurance protects the in-

Digitized by Google

sured against his liability for accidents to his employees and also against his liability for accidents to the general public. But if you don't your scheme will not be a convenience, but rather a vexatious interference with the private right to insure.

Many contractors carry on operations in two or more states. Many manufacturers send their products all over the country and send their own men along to install them. If such contractors and manufacturers were insured by the State, of what value would the insurance be when the insured were operating outside of the State?

If the State company were given a monopoly of the business in its State, would it insure the concern of another State while temporarily carrying on operations in its State?

I maintain that the proper kind of self-interest will be entirely absent from officials who are selected to manage a State company, while always present with the private company officials. Self-interest is a tremendous motive to keep up the service to the insured and to keep down the expenses of management. State company employees will have no self-interest to do that. Their self-interest will lead them to embrace the opportunity to become personally popular and advance their political fortunes through liberal expenditures. They will have no personal interest in preventing payments of excessive and fraudulent claims.

Private company officials and employees are selected, retained and promoted on their merits.

Moreover, I make the bold statement that no State can obtain the services of the army of experts required to conduct successfully a large compensation insurance company. Generally speaking, those having the highest technical and practical knowledge do not accept such insecure positions, if avoidable.

Insurance companies are already supervised to such an extent that they may almost be said to be part of the State.

Digitized by Google

What other business is there which is subjected to such great publicity as is that of insurance? Every dollar of income is reported to the public authorities of nearly half a hundred States, if the company is doing business in all of them. These reports are spread broadcast. Expenses are subjected to the same scrutiny. Every detail of management is supervised by public authorities. Even the right to contract is limited by law and supervised by insurance commissioners.

No less a person than Arthur I. Vorys, for many years State Superintendent of Insurance of Ohio, has said:

> "There is no institution in the United States subjected to as much inspection, supervision, regulation and dictation as insurance."

All stock casualty insurance companies are now inspected, supervised and regulated by the State, save only as respects premium rates, and competition surely regulates the rates, for casualty insurance in this country is no longer controlled by a few companies. Many States now have their own liability (or compensation) insurance companies, some States have many such companies. Indeed, new companies are springing up so fast that, at the present rate of increase, right soon every considerable city can boast of being the headquarters of one or more such insurance companies. It is reported that a mutual association has just been chartered by your State.

If any person thinks that the rates compensation insurance companies are likely to ask in your State are so high that the companies will make exorbitant profits, he need not set the cumbersome State machinery in motion for the purpose of relieving his fellow citizens from that evil. That will be a slow method, at best. He can give relief more quickly by starting a company of his own—he can get a new company under way within a few weeks.

Digitized by Google

To Hon. John T. Clarkson

It requires neither experience nor good judgment to start a liability insurance company. All legal requirements are met by raising the necessary capital.

But, long ago, the greatest of Teachers pointed out the folly of an intending builder who "sitteth not down first and counteth the cost."

I trust you will pardon the length of this letter. The truth is I have not the time in which to make it shorter.

I thank you for giving me the opportunity to write it.

Most truly yours,

EDSON S. LOTT,

President.

Digitized by Google

LETTER NO. 3

The Percentage of Payments by Employers Which Reaches Injured Employees

To Hon. Frank P. Bennett, Jr., State Senator of Massachusetts.

New York, May 6th, 1912.

My dear Senator:

You said to me the night before last (Thursday night) and again the morning after (last Friday morning) that your Workmen's Compensation Commission claim that out of each dollar casualty insurance companies receive in premiums for employers' liability insurance, thirteen cents is paid in losses and eighty-seven cents is used in the distribution of the thirteen cents.

I denied then and deny now, that your Commission or any member thereof ever made such a statement.

Will you not be so good as to make inquiry of your Commission concerning the correctness of your statement to me, that I may offer you a proper apology—if the error is mine instead of yours; and that I may set your Commission straight, if it has been making such statement?

As a matter of fact, liability insurance companies **could** take in one hundred thousand dollars in premiums and pay out but thirteen thousand dollars in losses, **and yet be most useful and even necessary institutions.**

However, even though a liability insurance company **COULD** take in one hundred thousand dollars in premiums and pay out in losses but thirteen thousand dollars, and still be pursuing

an honorable
a useful,
and even
a necessary
calling,

Digitized by Google

the RECORD is different, as I am prepared to show. But I should first like to know whether your Commission has made such a statement as you attributed to it.

Of course there is a wide difference between the amount of premiums received for employers' liability and the amount of "damages" which actually gets into the pockets of injured employees, but if this is a fault the fault cannot be laid at the door of insurance companies;

it
is
the
law
which
is
at
fault.

The present employers' liability law (or common law) now in force in your Commonwealth, and which will be in force until July 1st, **does not require an employer to pay an injured employee anything at all,—**

unless it actually
is proven, to the satisfaction
of a court and jury,

that the employer
or his superintendent
was solely at fault

for the accident causing the injury; and that the injured employee was himself guiltless of any "**contributory negligence**" in connection therewith; and that the accident was not caused by an act of a "**fellow servant**" (fellow employee); and that the accident was not caused by something impossible to foresee and inherent in the work which the injured employee had engaged to do ("**assumption of risk**").

(A lawyer would not employ my words in telling this to you, but I am conveying the right idea to your mind.)

Digitized by Google

With all these defenses on the side of the employer, only about one injured workman in eight in this country has been receiving anything from his employer in the way of "damages" (or "compensation") when he has been accidentally hurt.

But nearly one hundred per cent. of injured workmen

D–E–M–A–N–D
DAMAGES
WHEN THEY ARE HURT.

They do not so frequently **obtain** damages, but they almost invariably **seek** damages.

And a large percentage of them get in the hands of lawyers whose practice is mostly in accident (or "negligence") cases.

Now I assume that you will assume that 'tis an easy matter to defend an employer, when he has so many defenses, against a suit brought by an injured employee for damages, but—believe me—it is not.

When an employer carries no insurance and a lawyer notifies him that he is about to bring suit for damages against him on behalf of an injured employee, the employer usually consults a lawyer himself. The lawyer tells him what the law is. From the lawyer's description of the law, the employer usually decides that he is not "liable," and a lawsuit often follows.

When an employer is in direct litigation with his workmen, he is often governed by strong prejudice and passion; that is, he feels keenly a personal injustice. Insurance companies deal with such things impersonally, calmly and dispassionately. No liability insurance company can be permanently successful unless the injured workmen of its assured are dealt with in a broad and liberal manner as distinguished from a narrow and technical spirit, for—finally—the employers will patronize that company which causes the

Digitized by Google

least friction between employers and workmen. Hence the injured workman is usually better off if his employer is insured.

Of course the insurance company does not pay the injured workman his hospital and doctor bills and his wages while he is laid up in all cases—far from it; for the very good reason that

IT
IS
NOT
P–A–I–D
TO
DO
ANYTHING
OF THE KIND.

The insurance company is paid to **hold the assured harmless against his**

L
E
G
A
L
LIABILITY

to injured employees, **and it is paid for NOTHING MORE.** The insurance policies cover the assured ONLY against the liability IMPOSED BY LAW upon the assured and against claims by injured employees to **enforce the law.**

Hence IN THEORY the insurance company should not pay any injured employee anything unless and until a court and jury has said that his employer is liable to him for the damage he has sustained; but in PRACTICE the insurance company litigates only a **VERY** small number of the claims against its assured, and it **wins** a very **LARGE** percentage of

Digitized by Google

those it does litigate, showing that there was no liability to start with.

Those companies which have a reputation for "litigating everything," really litigate only a very small percentage of all the claims against their assured.

We hear much about the litigation of liability insurance companies, but 'tis like the one bullfrog in a tin can—the noise he makes causes you to imagine there are a million frogs close by all lending a throat to make so much noise.

Will you not please read what The Journal of Commerce, of the issue of February 10th, 1912, said about one company as follows:

"LIABILITY INSURANCE

"Relative Merits Liberal Settlements or Resisting Claims.

"There is much complaint among liability underwriters that under existing business conditions, due to compensation legislation, liberalizing of employers' liability laws and political agitation, there is a serious loss in this class of business. It is noticeable, however, that the companies whose practice has been to keep the outstanding claims against their assured reduced to the minimum, show a considerably better experience than those who have in the past adopted the policy of resisting such claims until proved in court. The relative advantage of these two diametrically opposed policies was never more clearly exemplified than at the present time, when liability underwriters who have always advocated the former system are now able to tell exactly where they stand, whereas those who took the latter course have a great volume of liability piled up against them which they cannot satisfactorily estimate the cost to liquidate.

"As an instance of the advantages of the former course, the United States Casualty Company, which has always cleared up the claims against its assured as rapidly as possible, had at the close of 1911 only

Digitized by Google

156 suits outstanding out of considerably over two hundred thousand claims against its assured during the time it has been writing liability insurance. The company last year wrote over one million dollars net in liability premiums."

Notwithstanding the really liberal practices of liability insurance companies, the fact that they insure against the **legal liability** of their patrons, and 'tis usually difficult to determine (in advance of a lawsuit) when there is and when there is not **legal liability,**

BECAUSE
OUR LAWS
ARE AS THEY ARE,

the running of a **good service** liability insurance company (outside of its losses) is an expensive proposition at best.

And even if such companies paid over to the lawyers of injured workmen **ALL** the premiums they received, the lawyers would often keep one-half and sometimes more, so the injured workmen would really get but about one-half the premiums.

Moreover, if employers did not insure, but employed their own lawyers that method would, in most cases, be more expensive than insurance, **and the injured workmen would get no more.**

So,
my dear Senator,
I ask you,
why do you blame the insurance
companies
for a condition
due
entirely
to
your laws?

Digitized by Google

To Hon. Frank P. Bennett, Jr.

We must all admit that **theoretically employers' liability** laws are all right; that we should not make an employer pay damages for an accident to a workman when he (the employer) is in no wise to blame or at fault for the accident; but in **practice** such laws work such hardships that they ought to be replaced by **workmen's compensation** laws.

* * * * * * *

Cordially and sincerely yours,

EDSON S. LOTT,

President.

Digitized by Google

LETTER NO. 4

The Basis of Premium Rates for Workmen's Compensation Insurance

To Hon. Samuel Botterill, East Orange, N. J., of the New Jersey Workmen's Compensation Commission.

New York, April 8, 1912.

My dear Mr. Botterill:

I thank you for your very frank but most kind letter of April 2nd re my paper on "State Employers' Liability or Workmen's Compensation Insurance."

* * * * * * *

I first take up one of the last things in your letter:

> "While dealing with the question of rates I would like to call your attention to the time when you were before the New Jersey Commission at your last visit to Trenton, wherein you stated to the Commission that the insurance companies were more or less in the dark as to a base to make your rates upon, and yet I see on page 5 of your paper these words '**In making calculations to fit those new conditions, liability insurance underwriters have used the data at their command and the knowledge founded on their experience in an endeavor to name premium rates which will prove fair to the insurer and the insured.**"

I respectfully submit that my statement before your Commission is not inconsistent with the statement in my paper.

We certainly used the **data at our command** and the **knowledge founded on our experience** when we made our New Jersey premium rates.

Just as certainly we are more or less in the dark as to the actuarial value of our old data when applied to new conditions.

Digitized by Google

The data at our command was largely compiled under the old order of things—under policies based on employers' liability laws (founded on the negligence or fault of the employer). Our experience was largely with the law of negligence.

But we did have other data and other experience

based
upon
accidental
injuries
to employees,
irrespective
of the question
of legal liability
on the part of
the employers,

for all liability insurance companies had for years issued policies which provided payment of part wages to injured employees while they were disabled,

WITHOUT QUESTION
AS TO WHO WAS AT FAULT
FOR THE ACCIDENT.

Only a few employers bought such policies, for the reason that the premium rates for them were very much higher than the premium rates for policies which only

protected
the
insured
against
his
legal
liability.

Digitized by Google

However, the data derived from our operations under such policies gave us a good "line" on the probable cost of workmen's compensation insurance, although such data was not conclusive. Of course we took into consideration our much more voluminous data gathered from our larger operations in our regular line of straight liability insurance. And the committee which had in charge the compiling of the New Jersey rates "used the knowledge founded on their experience" in an attempt to reconcile all the elements entering into the question to be determined. I beg you to believe that the committee which compiled the New Jersey rates made no attempt to pitch them so high that the insurance companies would be likely to make large profits, but that their greatest concern was to only raise them to a point which would save the insurance companies from actual loss. Moreover, it was impossible to get all the insurance companies to agree on commissions, with the result that we are now paying a higher rate of commission in New Jersey than the amount the premium rates were loaded for that purpose.

I quote from your letter:

> "But the great source of distrust of the insurance companies in the public mind, seems to be that the insurance companies have not taken the public into their confidence sufficiently as to educate the public mind as to the necessity of these large increases in their rates, by publishing broadcast the statistics upon which they base their reason for so large an increase in the rates."

To be entirely frank with you, my dear Mr. Botterill, I must say that I do not know how to go about "publishing broadcast the statistics." There is not a newspaper published in your State large enough to hold the statistics, even if it printed nothing else. Moreover, would the public understand the statistics, if we had enough money to pay for publishing them broadcast?

Digitized by Google

Is it right for me to suggest that I did take the public into my confidence when I published those statistics on pages 7 and 6 of my paper?

I have placed in circulation two hundred thousand copies of that paper. You can figure the cost of the postage alone in connection therewith. What is the result? Even you do not appear to give me any credit for giving some figures in that paper.

You can see what the ultimate loss ratio to the insurance companies was under the old law, and if the new law causes employers to pay out more money, then we must have more premiums. Our old premiums were too low to take care of the increasing loss ratios even if you had not changed your law.

Please come to my office and let me take you where you can see the figures which have been compiled. Let me show you our statements to the State Insurance Departments. Let me show you anything and everything you want to see.

I respectfully suggest, my dear Mr. Botterill, that you are in error when you write:

> " . . . you state that no one could even see the figures of the various insurance companies, which was a base for the large increase of the rates."

Perhaps my words did not make my meaning clear. My words were:

> "Governor Wilson cannot have greater knowledge than insurance underwriters themselves as respects what it is likely to cost insurance companies to insure New Jersey employers against their liability for accidents to their workmen. He has no source of information on this subject which is not readily accessible to every underwriter in the land. He surely has not studied—has not even seen—the figures of the companies whose managers he characterizes as 'singularly unwise.' It appears, therefore, that in

Digitized by Google

this particular instance Governor Wilson, contrary to his custom, reached a conclusion on ex-parte evidence."

What I meant was that the Governor had not informed himself before he spoke. I did not mean that he would have been denied access to our figures had he asked to see them. It seems to me that I used arguments against the Governor's public charge that I was "singularly unwise." When it comes to that, I am willing to say that the Governor could not have told from any superficial examination of our records whether or not our rates were too high or too low. A working knowledge of the business is not so easily acquired. This is not saying that Governor Wilson is not a gentleman of unusual intelligence. However, ANY MAN who can now tell the EXACT ULTIMATE COST to insurance companies for carrying risks under your compensation law is, indeed, a wise man. I do not believe that such a man exists.

I wish I had the power to convey to you and to all others the belief which possesses me, and which is based on my general experience in the business, that my company will lose a large amount of money before we can hope to make money writing compensation insurance.

While you feel that our rates are too high, I fear that they are too low. I hope that you are right and that experience will permit us to decrease our rates. **We always make the highest ratio of profit on the lowest-rated risks.**

I wish I could pass along to the public the knowledge I think I possess and which causes me to know as much as I can know anything yet undetermined, that our present premium rates are not pitched too high.

During the first three months of the present year we have paid out in losses and loss expenses 64.2 cents out of every dollar we have taken in for liability and compensation premiums, and this covers public risks as well as employers' risks, and the loss ratio is always less on public risks than on em-

Digitized by Google

ployers' risks. No state in this country could conduct the business on a 35.8 per cent expense ratio. However, when compensation for industrial accidents becomes general in this country, as it will, we can then go on a 65 or 70 per cent. loss ratio, because we can make a big saving on agents' commissions, which are now entirely too high I freely admit.

Please come over to my office and look over my figures.

Most truly yours,

EDSON S. LOTT,

President.

Digitized by Google

LETTER NO. 5

Same Subject as No. 4 and to the same Correspondent

New York, May 23, 1912.

My dear Mr. Botterill:

I am very much obliged to you for your most kind letter of May 17th.

I never thought, my dear Mr. Botterill, that your letters to me were written for the purpose of criticising or finding fault with casualty insurance companies. I have always believed that you were simply striving to bring about a better feeling all along the line—that you had no idea of discrediting casualty insurance companies, that your sole purpose was to do them no wrong while doing what you could to see that they did not wrong their patrons.

I quote from your letter of May 17th as follows:

> "Would it not be a direct benefit to the insurance companies, that they should in a more lessened sense make their rates known to the public, by selecting a few prominent papers in each state to publish their rates in, so that the public might know at a glance what they have to pay in order to reap the benefits of insurance?"

Why, my dear Mr. Botterill, every employer in New Jersey has only to ask any insurance agent (in his State or elsewhere) to be informed as to what it will cost him to carry liability and compensation insurance.

The rates are published by the Workmen's Compensation Service and Information Bureau, 80 Maiden Lane, New York City, and sold to all comers without question. I am sending you a rate book by mail. If you desire additional copies, they are yours for the asking.

Digitized by Google

To Hon. Samuel Botterill

Do you realize what an expense it would be to publish all our New Jersey rates in leading New Jersey publications? The cost would be prohibitive. Moreover, who would gain thereby? The general public (outside of insurers) are not interested, and all insurers have to do to be fully informed is to simply ask. Indeed, they do not have to ask, for the very good reason that insurance agents are importuning them all the time for their insurance and informing them of the cost thereof.

There is absolutely no "secrecy" about our rates.

It seems to me that you must have been misinformed on this particular phase of the situation. Do you think that you did have a misconception of how we handle our rates?

* * * * * * *

Hastily, but cordially yours,

EDSON S. LOTT,

President.

Digitized by Google

LETTER NO. 6

The Reason Why Premiums for Workmen's Compensation Insurance are Higher than Employers' Liability Insurance

To Hon. Francis H. Bohlen, Secretary, Industrial Accident Commission of Pennsylvania.

New York, March 30th, 1912.

My dear Sir:

I now address myself to that part of your letter of March 8th which reads as follows:

> "I understand that your company does business in New Jersey and Wisconsin, in both of which states acts removing the common law defenses from the employer unless he elects to go under a compensation scheme are in force. Your experience in this field of insurance would be of immense value to our Commission. The following points strike me as being the most important: First, How do your premiums for insurance of those who do not accept the compensation scheme on the average compare with the rates charged for insurance before the act was passed? Second, How do your rates for premiums charged employers who elect the scheme compare with those employers who do not elect it, and with the rates charged before the act went into effect? Third, How does your insurance in these states of employers who have not accepted the act compare with the amount of insurance which you have written for employers accepting the scheme?"

I take the liberty of adding California to the States about which you inquire. Because California, New Jersey and Wisconsin took away the most important defenses theretofore accorded employers in defending personal injury suits for damages, and because in all States where the question of workmen's compensation has been agitated verdicts in

Digitized by Google

personal injury cases run higher than formerly, our rates for employers' liability (common law) insurance are now very much higher in those States than they were when we were operating under the old order of things.

In Wisconsin and California our present premium rates for employers' liability insurance are lower than and in New Jersey they are practically the same as our present premium rates in those States for workmen's compensation insurance. That is, we have practically the same rate for both coverages in New Jersey, while in Wisconsin and California we charge one rate for workmen's compensation and a lower rate for employers' liability.

Friends of workmen's compensation laws claim that we made our present premium rates for employers' liability insurance in California and Wisconsin lower than our present premium rates for workmen's compensation insurance in those two States, for the purpose of discouraging employers from taking advantage of elective workmen's compensation laws. That is not our reason. The reasons for charging more for workmen's compensation insurance than for employers' liability insurance in those two States may be set forth as follows:

In Wisconsin there is no limit to the charges which the employer must pay for such medical and surgical treatment, medicines, medical and surgical supplies, crutches, and apparatus, as may be reasonably required at the time of the injury and thereafter during the disability, for ninety days, to cure and relieve injured employees from the effects of accidental injury. The scale of compensation calls for the payment of 65% of the earnings, with a weekly minimum of $4.69 and a weekly maximum of $9.38, and after ninety days if the injured employee requires the services of a nurse full wages must be paid. If an injured employee is disabled less than one week no compensation is called for, if less than four weeks three weeks compensation must be paid, if disabled

Digitized by Google

four weeks or more compensation begins with the date of injury. In case of death or permanent injury of an employee the employer may be liable for $3,000 and certainly not less than $1,500, and subject to these limits compensation is payable for permanent injuries to employees for a period not exceeding fifteen years, and if during the fifteen years the injured employee dies from any cause whatsoever (under certain circumstances) the death compensation becomes payable.

The features of the California workmen's compensation law are somewhat different, but about equally drastic on the whole.

The Wisconsin and California workmen's compensation laws provide a higher scale of compensation than the New Jersey workmen's compensation law.

The above are the reasons, briefly, why workmen's compensation premium rates in Wisconsin and California are higher than in New Jersey, and also the reasons why we charge a higher premium rate for workmen's compensation insurance in Wisconsin and California than we do for employers' liability insurance in those States.

In California and Wisconsin it was expected that the new laws would make the cost of employers' liability insurance higher than the cost of workmen's compensation insurance, and that this would be one of the reasons why employers would avail themselves of the compensation feature of the law,—all of which is of course most desirable if we are to have employers' liability laws and workmen's compensation laws in force in the same State at the same time. However, liability underwriters and actuaries do not agree with the conclusions reached by the framers of the Wisconsin and California laws, while recognizing that it is more nearly true as respects New Jersey.

The scale of compensation in the California workmen's compensation law is considerably higher than in the New

Google

Jersey law and in some cases somewhat higher than in the Wisconsin law.

(It may be mentioned that the punitive damages provision of the California workmen's compensation and employers' liability laws adds somewhat to our insurance rates for that State.)

In New Jersey, the scale of compensation, under the workmen's compensation law, is equitable in amount to all concerned, the law is more certain and definite, the cost of the medical attention feature is limited, the law is administered by the courts instead of by a commission. These are some of the considerations which make workmen's compensation insurance rates and employers' liability insurance rates in New Jersey about equal, and also make the New Jersey workmen's compensation insurance rates lower than those in California or Wisconsin.

The rates for employers' liability insurance, prior to the enactment of the laws to which you have referred, should have been identical in California and New Jersey and considerably higher in Wisconsin. Tabulated experience gathered previous to the enactment of the laws referred to shows that if the actual claim cost of employers' liability insurance in the United States be represented as 1, the cost in New Jersey and in California must be represented by 1, while the cost in Wisconsin must be represented by 1.33 (and I may add in passing that the cost in Pennsylvania is also represented by 1).

* * * * * * *

With respect to your inquiry as to how the volume of employers' liability risks written compares with the volume of workmen's compensation risks in the states mentioned, it is a fair statement to say that practically no employers' liability insurance (without "compensation" features) is written in New Jersey and that but little workmen's compen-

sation insurance is written in California and Wisconsin, and the reasons for this must, in the light of what I have herein set forth, be obvious.

* * * * * * *

Hastily but cordially yours,

EDSON S. LOTT,

President.

Digitized by Google

LETTER NO. 7

The Advantages of a Stock Liability Insurance Company over a Mutual Liability Insurance Association. Effective Work Done by Stock Insurance Companies in Preventing Accidents

To the Massachusetts Employees' Insurance Association.

New York, May 23d, 1912.

Gentlemen:

I have read your pamphlet entitled "**Compensation Insurance for Employers.**"

Although the United States Casualty Company will compete for patronage with The Massachusetts Employees' Insurance Association, it is my earnest desire to be in harmony with and not antagonistic to your association.

It seems to me that there is ample room in your great industrial Commonwealth for your association, for the other mutual liability insurance associations doing business there, and for the stock liability insurance companies doing business there.

* * * * * * *

It seems to me that it was a just and fair decision of the Legislature of Massachusetts to permit employers of your State to try out the various systems of insurance now offered to Massachusetts employers for caring for their liability under your new law, **and let the fittest survive.**

You say, on page 19 of your pamphlet:

> "... no satisfactory final solution of this vexing problem of workmen's compensation can ever be worked out on a basis of insurance through liability stock companies."

Digitized by Google

hence you ought not to fear the competition of my company, for if your statement is founded on fact we shall be and should be driven out of business because we cannot successfully compete with you and other mutual liability insurance associations.

If you and other mutual liability insurance associations cannot successfully compete with stock liability insurance companies, then you will be and should be driven out of business.

I challenge you to a fair contest. Judging from the record of my company and from experience in New Zealand, The Netherlands, Italy and Sweden, I am confident that—unless your Legislature subsidizes you and handicaps me—I can beat you in efficiency.

All I ask is to be given an opportunity to show what my company can do. I believe that my company can and will give our patrons better service and greater satisfaction than you will accord your patrons; I believe that my company can and will give our patrons better service and greater satisfaction than can be obtained from any mutual organization. We have the men and the equipment to do this.

So believing, I regret that you have found anything to criticise in any of the matter circulated in your Commonwealth by liability insurance organizations, either stock or mutual. And I trust that you now regret that you were moved to use such violent language as is found on page 19 of your pamphlet, to wit:

> "The circular (of liability underwriters) from which they are quoted is a tissue of unfounded assumptions, ingenious distortions and malicious misrepresentations. The document throws a strong light on the nature of the methods of competition pursued by the liability companies."

Of course such language does not make for harmony, and it may be assumed that harmony will be necessary to a

Digitized by Google

"satisfactory final solution of this vexing problem of workmen's compensation."

While I am strongly in favor of workmen's compensation laws as distinguished from employers' liability laws, I know that a "satisfactory solution" of the entire question calls for patience, tolerance, intelligence and experience—I realize that it is a "vexing problem"; and for these reasons I do not wonder that there are conflicting views regarding it. Moreover, whenever a complex and far-reaching law is enacted, its different parts

are always variously construed

until the courts have passed upon actual cases.

Equally intelligent lawyers honestly differ.

And
judges
on the same bench
sometimes
fail
to
agree.

With all these things in mind, I beg leave to differ with you on some of the statements contained in your pamphlet.

I quote from page 9 of your pamphlet:

> "Now, in England it costs one shilling in expense to get one shilling in compensation into the hands of the beneficiary. That is, the expense represents 100 per cent. of the amount paid in benefits."

In England the ratio of expenses paid (not including commissions) to premiums of the tariff companies (those using the same tariff of premium rates) during the three years ending with 1910 is as follows:

1908, 22.93%; 1909, 22.78%; 1910, 21.36%.
Average for three years, 22.36%.

Digitized by Google

To Massachusetts Employees' Insurance Association

The record of the English non-tariff companies is as follows:

1908, 24.59%; 1909, 23.09%; 1910, 28.95%.
Average for three years, 24.77%.

I quote from the same page of your pamphlet:

"The cost of soliciting business alone amounts to 30 per cent."

The English record of the cost of soliciting business (commissions to agents) is as follows:

TARIFF COMPANIES.

1908, 13.17%; 1909, 13.09%; 1910, 13.39%.
Average for three years, 13.21%.

NON-TARIFF COMPANIES.

1908, 15.36%; 1909, 14.73%; 1910, 14.98%.
Average for three years, 15.02%.

The English record of the loss ratios is as follows:

TARIFF COMPANIES.

1908, 61.88%; 1909, 64.77%; 1910, 70.02%
Average for three years, 65.53%.

NON-TARIFF COMPANIES.

1908, 69.66%; 1909, 73.15%; 1910, 90.35%.
Average for three years, 74.72%

So that during the three years ending with 1910 the average record of all the English tariff companies shows that for each one hundred dollars in premiums they paid out approximately

$65^1/_2$ dollars for losses,
$22^1/_3$ dollars for expenses,
$13\ ^1/_5$ dollars for commissions;

Google

making a total of over 101 dollars paid out in losses, expenses and commissions for every one hundred dollars received in premiums.

The average record of the English non-tariff companies during the same period shows that for each one hundred dollars in premiums they paid out approximately

$74^3/_4$ dollars for losses,
$24^3/_4$ dollars for expenses,
15 dollars for commissions;

making a total of over 114 dollars paid out in losses, expenses and commissions for every one hundred dollars in premiums.[1]

Then you are in error, are you not, when you say that in England "the expenses represent 100 per cent. of the amount paid in benefits"? And are you not very much in error when you say that in England "the cost of soliciting business alone amounts to 30 per cent."?

[1] The loss ratio of the English companies was higher in the year ending December 31, 1911, than it was the previous year as the figures reprinted below and prefatory note, from the Journal of Commerce and Commercial Bulletin, of November 7, 1912, will demonstrate:

The following table, prepared by the "Post Magazine" of London, shows the profit results accruing from the employers' liability insurance business transacted in Great Britain during 1911, and in the majority of cases the figures relate to accounts covering the twelve months to 31st December last. The figures in column 2 represent the net premiums brought into account, increased by the unearned premiums at the end of the previous year, and diminished by the corresponding amount at the end of the year of account. No regulation has been laid down as to the proportion of this unearned premium reserve, which varies with different offices. The figures in column 3 represent the scheduled item, "Payments under policies, including medical and legal expenses in connection therewith, after deduction of sums reinsured," increased by the amount reserved for claims outstanding at the end of the year, and diminished by that brought forward from the previous year. Columns 9 and 10 show the margin of profit or (where a minus sign appears) loss.

Digitized by Google

Tariff Companies—	Premiums earned.	Claims in respect of year. Amount.	Claims in respect of year. % of prem'ms earned.	Commission. Amount.	Commission. % of prem'ms earned.	Expenses of management. Amount.	Expenses of management. % of prem'ms earned.	Profit margin or deficit. Amount.	Profit margin or deficit. % of prem'ms earned.
Column 1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Alliance	£93,400	£42,492	45.50	£11,904	12.74	£22,746	24.35	£16,258	17.41
Atlas	19,485	11,845	60.79	2,776	14.25	2,796	24.61	68	.35
British Equitable	1,737	1,473	84.78	278	16.00	329	18.97	— 343	—19.75
British Law	9,300	3,974	42.73	1,402	15.08	2,896	31.14	1,028	11.05
Caledonian	7,826	4,577	58.49	1,322	16.89	2,117	27.05	— 190	— 2.43
Central	21,365	13,504	63.19	3,334	15.61	6,239	29.21	— 1,712	— 8.01
Century	18,888	12,972	68.66	2,737	14.49	4,496	23.81	— 1,713	— 6.96
Commercial Union	561,276	354,546	63.17	75,858	13.51	112,237	19.99	18,635	3.33
Employers' Liability	96,762	96,295	99.52	12,432	12.85	16,714	17.27	— 28,679	—29.64
Essex & Suffolk (include accident business)	75,412	71,667	95.04	10,619	14.08	20,161	26.74	— 27,035	—35.86
Gresham Fire & Accident	3,579	1,160	32.40	418	11.68	2,132	59.58	— 131	— 3.66
Guardian	71,046	40,816	57.45	10,128	14.25	16,609	23.37	3,493	4.93
Horse, Carriage & General	1,622	805	49.62	237	14.63	325	20.05	255	15.70
Law Union & Rock	28,294	19,199	67.86	4,362	15.41	4,590	16.23	143	.50
Liverpool & London & Globe	70,295	43,605	62.03	14,785	21.04	16,012	22.78	— 4,107	— 5.85
London Assurance	7,842	2,340	29.84	1,095	13.96	2,084	26.58	— 2,323	29.62
London & Lancashire Fire	240,189	155,897	64.92	32,020	13.33	51,493	21.43	779	.32
London & Lancashire Life & General	5,293	2,571	48.56	1,067	20.16	1,655	31.28	.....	.....
London Guarantee & Accident	31,063	24,166	77.79	4,501	14.49	6,457	20.79	— 4,061	—13.07
Northern	36,427	19,637	53.91	5,293	14.53	7,911	21.72	3,586	9.84
Norwich Union Fire	165,579	118,974	71.85	24,227	14.64	32,535	19.65	— 10,157	— 6.14
Pearl	2,072	561	27.08	223	10.76	213	10.28	1,075	51.88
Phoenix	19,545	8,194	41.93	2,845	14.56	3,632	18.58	4,874	24.93
Provident Clerks' & General	38,058	26,759	70.32	3,573	9.39	6,857	18.01	869	2.28
Railway Passengers	128,706	90,866	70.60	15,700	12.20	27,610	21.45	— 5,470	— 4.25
Royal	157,079	100,258	63.83	22,645	14.42	28,097	17.89	6,079	3.86
Royal Exchange	95,814	55,255	57.70	13,644	14.24	21,747	22.67	5,168	5.39
Scottish	27,625	19,047	68.95	4,366	15.81	7,092	25.67	— 2,880	—10.43
Scottish Metropolitan	6,128	3,951	64.49	872	14.23	2,094	34.17	— 789	—12.89
Scottish Union & National	29,417	23,475	79.80	4,116	13.99	7,661	26.04	— 5,835	—19.83
State	14,845	9,334	62.89	2,902	19.54	3,318	22.36	— 709	— 4.79
Sun	77,562	49,775	64.17	10,559	13.62	22,642	29.19	— 5,414	— 6.98
West of Scotland	2,913	759	27.30	455	15.63	835	28.65	828	28.42
Yorkshire	79,733	54,688	68.65	9,607	12.06	17,202	21.51	— 1,764	— 2.22
Totals, tariff companies	£2,246,177	£1,485,473	66.12	£312,302	13.91	£483,534	21.53	—£35,132	— 1.56

Digitized by Google

Column 1.	Premiums earned. 2.	Claims in respect of year. Amount. 3.	Claims in respect of year. % of prem'ms earned. 4.	Commission. Amount. 5.	Commission. % of prem'ms earned. 6.	Expenses of management. Amount. 7.	Expenses of management. % of prem'ms earned. 8.	Profit margin or deficit. Amount. 9.	Profit margin or deficit. % of prem'ms earned. 10.
* Law Fire	£1,424	£563	39.54	£162	11.31	£330	23.24	£369	25.91
* Ocean Accident & Guarantee	327,383	208,953	63.82	41,158	12.57	78,756	24.06	— 1,484	—.45
* Union	24,701	14,974	60.61	3,703	15.00	5,025	20.34	1,000	4.05
Non-tariff Companies—									
British Crown	£7,877	£11,857	150.52	£1,132	14.38	£3,454	43.84	— £8,566	—108.74
British General	23,513	15,468	65.80	3,287	13.98	4,602	19.57	156	.65
Car & General	74,781	61,297	81.96	9,881	13.22	15,117	20.22	— 11,514	—15.40
Co-operative	14,400	9,221	64.03	2,040	14.16	2,652	18.41	487	3.40
Cosmopolitan	8,830	4,320	48.92	1,599	18.11	2,620	29.67	291	3.30
Drapers' Mutual	1,551	677	43.68	227	14.60	691	44.52	— 44	— 2.80
Federated Employers'	18,865	17,500	92.77	2,857	15.15	3,243	17.19	— 4,735	—25.11
Fine Art & General	50,440	34,559	68.52	7,781	15.43	8,931	17.70	— 831	— 1.65
General Accident, Fire & Life	179,055	147,663	82.47	24,041	13.42	44,548	24.88	— 37,197	—20.77
Imperial Accident	8,154	4,631	56.79	1,307	16.03	1,662	20.38	554	6.80
Irish Catholic Church Property	842	149	17.70	.....	.....	236	28.03	457	54.27
Legal	20,261	11,375	56.14	3,013	14.87	5,389	26.60	484	2.39
Motor Union	2,062	425	20.62	439	21.28	263	12.77	935	45.33
National of Great Britain	2,993	1,617	54.03	472	15.77	634	21.18	270	9.02
Northern Equitable	88,171	56,949	64.59	13,091	14.84	21,631	24.54	— 3,500	— 3.97
Premier	1,998	1,105	55.31	492	24.67	369	18.47	32	1.55
Provincial	4,781	2,867	59.95	703	14.71	1,352	28.28	— 141	— 2.94
Traders & General	797	382	47.87	75	9.48	108	13.51	232	29.14
Totals, non-tariff companies	£509,371	£382,062	75.01	£72,437	14.23	£117,502	23.06	—£62,630	—12.30
Grand totals	£2,755,548	£1,867,535	67.77	£384,739	13.96	£601,036	21.81	—£97,762	— 3.54

* The three companies specified above are constituent parts of companies specified on the preceding page and the figures here given are included in those of the controlling companies.

Digitized by Google

And suppose that expenses and commissions do cost the English companies about 36 per cent., what is the ratio of expenses of mutual insurance associations, like yours, in Europe? You don't know. You can't even guess. You may know that the expenses of the German associations are from 13 per cent. to 16 per cent.; but that does not include the expenses of the services of management performed by various branches of the Government which is charged to the public generally. The only way in which you can reduce the English ratio of expenses is by getting the State to assume part of your expenses and to hide it in its general budget, and by getting the State to confer upon you a legal monopoly and thereby inflict upon the industries in your State all the evils and abuses of monopoly.

(As a matter of mutual interest, I call your attention to the fact that the average loss ratio of the English companies—tariff and non-tariff—is steadily climbing higher, to wit:

1908, 63.37%
1909, 66.86%
1910, 72.58%.)

I quote from the same page of your pamphlet:

> "Moreover, aside from the extreme costliness of this system of insurance (in England) through the liability stock companies; it works unsatisfactorily in other respects. It introduces an element of controversy and antagonism into the relations between employer and employed. The companies make a practice of 'bluffing' claimants into settlements for a lump sum, thus defeating the object of the act, which is to furnish an assured income to an injured person for a definite period."

You say that insurance by stock companies introduces an element of controversy and antagonism into the relations

Digitized by Google

between employer and employed. There is more controversy between employers' mutual associations and injured workmen in Germany, than there is between stock companies and injured workmen in Great Britain.

Of course the last part of the quotation is merely an expression of an opinion. Inasmuch as no lump sum settlement can be made without the approval of a legally qualified court, I think you will find it most difficult to induce many who are qualified to form an intelligent opinion to agree with you.

As respects your statement, as applied to this country, I know that the practice of the United States Casualty Company disproves the entire meaning and intent of your statement, and I believe that your statement is wholly misleading as respects other companies.

I point out to you that in the report of the Wainwright Commission to the New York Legislature, you will find figures which show that the United States Casualty Company paid, during the three years named therein, something to one out of each 3 2–5 employees of its assured receiving any sort of an injury, no matter how trivial. This was under the old employers' liability (or common) law.

I quote from the same page of your pamphlet:

> "Finally, liability insurance has not accomplished anything toward the prevention of accidents. The liability companies do not attempt to enforce the use of safety devices, as they are competing for profit and soliciting business, and does not venture to arouse resentment among employers by pushing the adoption of prevention measures."

That is a cruel statement. Cruel because many of your readers will think it is true.

Digitized by Google

To Massachusetts Employees' Insurance Association

I do not believe that there is a liability underwriter in the land who does not believe that the

prevention
OF
accidents
is
better
than
all
the
compensation
FOR
accidents
in
the
world.

LIABILITY INSURANCE COMPANIES HAVE SAVED HUMAN LIVES—MANY, MANY HUMAN LIVES.

Perhaps my argument will be more effective if I refer to that which some of my competitors are doing.

Is it possible that you know nothing of the inspection departments for the prevention of accidents maintained by stock liability insurance companies in general?

Is it possible that you have never read those books published by the Liability Department of the **Aetna Life Insurance Company,** entitled "SAFEGUARDS" (for the prevention of industrial accidents) and "WOODWORKING SAFEGUARDS" (for the prevention of accidents in lumbering and woodworking industries)?

(If you have never seen these books, I advise you to obtain copies of them and place them in the hands of your own inspectors. They are profusely and intelligently illustrated,

Digitized by Google

thoroughly practical, and are entitled to the commendation of every humanitarian.)

Is it possible that you have never attended an illustrated lecture on "Accident Prevention" by David Van Schaack, Esq., Director of the Bureau of Inspection and Accident Prevention of the Liability Department of the Aetna Life Insurance Company? If you have, how could you write that "liability insurance has not accomplished anything toward the prevention of accidents"? If you have not, I think I am justified in saying that you are writing about a subject of which you have not full knowledge.

Is it possible that you have not read one of those fifty thousand books published by The Fidelity & Casualty Company of New York, entitled "THE PREVENTION OF INDUSTRIAL ACCIDENTS"?

From the statement you make, I fear that you have not read that book, so let me tell you what some other people think of it.

Mr. H. B. Smith, Safety Inspector for the Illinois Steel Company for a score of years, says of the book that "**it will do a world of good to humanity.**"

Mr. C. W. Peck, Superintendent of Welfare Work of the International Harvester Company, says of it that "**it is by far the most practical, complete, and satisfactory book on the subject I have found.**"

The Northwestern Tile and Clay Products Company asserts that the book is "**distinctly Christian.**"

Many other large employers (including the Pennsylvania Railroad) have warmly endorsed the work; officials of many States (including your own) have highly commended it; trade papers have written enthusiastically about it, for an instance, the Scientific American says it is a "**life saver.**"

Of course the publishing of these books is only incidental to the general work carried on by many stock liability insurance companies for the prevention of accidents.

Digitized by Google

You say that liability insurance has not accomplished anything toward the prevention of accidents.

On the basis of long experience with employers

I
say
that
liability
insurance
has
accomplished
much
toward
the
prevention of accidents.

You say that liability companies do not venture to arouse resentment among employers by pushing the adoption of preventive measures.

I
say
that
the
average
employer
does
not
have
to
be
PUSHED
to
adopt
preventive
measures;

Digitized by Google

he **GRASPS** them when they are intelligently called to his attention. The average employer is a decent chap. You've got some of them on your Board of Directors. Perhaps you think your directors are better than the average because they are bigger than the average, but all of them did not start big, and presumably they were just as good when they were smaller. Yet accidents are not prevented as easily as you appear to believe.

Of course I must concede that liability insurance companies have not done as much as they should or as much as they will toward the prevention of accidents. Only a small percentage of the mortals in this world always and forever do as much good as they should. **However, when you start your inspection department it will be necessary for you to go to those very liability insurance companies**

for
ADVICE
(if you want the best),
and for
CO-OPERATION
(if you are to be in the highest degree successful).

If you expect to burn up Charles River you will need that co-operation. Why discredit a force which can be made such a powerful ally?

However you may designate the work done by liability insurance companies toward the prevention of accidents, you will find that they are to-day the greatest force, outside of employers themselves, in this country for the prevention of accidents. State Labor Bureaus would be more effective if lawmakers were not so CONTEMPTIBLY MEAN in appropriating money for their needs. And at that many of them are doing splendid work, considering their opportunities. Why do not your powerful directors lend their great influence toward having your State make more efficient inspections for the prevention of industrial accidents?

Digitized by Google

By the way, you will find some plants which it will be mighty hard for you to improve—some plants whose officials are as eager to prevent accidents as your inspectors will be.

At the same time, I fully believe that all this agitation over workmen's compensation is of itself going to reduce the number of industrial accidents in this country. But it will be a very slow process, at best.

I quote from page 10 of your pamphlet:

> "Again, take the case of Italy. That country has a national accident insurance institution, which was organized in 1883, and is administered by ten large savings banks. From the beginning this institution has quoted lower rates than the private insurance companies. Three reasons are given for its ability to reduce the expense of insurance, namely: the absence of the profit-making motive, the low cost of administration, and the advantage of a guarantee fund and certain privileges offered by the government."

It is true that the State insurance institution of Italy is maintained by Governmental favors (at the cost of the taxpayers at large) of the most substantial sort. Private insurance companies operating there are tremendously handicapped. Yet for a great many years they have successfully competed with the State insurance institution. Under these circumstances this proves superiority either in efficiency or economy on the part of the private companies.

Even though this were not true, how does your claim that in Italy the State institution sells its insurance for less money than private companies charge, establish anything in favor of your **mutual association** against my **stock company?**

You cannot offer the "advantage of a guarantee fund and certain privileges offered by the government," beyond your right to **assess** your own policyholders. The **State** does not guarantee anything for you or your patrons. Your **policyholders** do all the guaranteeing for you, and some of them

Digitized by Google

MAY
find
that
it
is
A VERY COSTLY
guarantee.

Isn't the only financial strength behind your association the fact that financially good subscribers may be called upon to pay the losses of the financially bad subscribers, and

isn't this
a weakness
instead of
a strength
of your
entire scheme?

Beyond all this, if the national accident institution of Italy has been doing business for thirty years, and "from the beginning has quoted lower rates than the private insurance companies," it must be that the private companies give their patrons better

SERVICE,

else the latter would long ago have been driven out of Italy.

I quote from page 11 of your pamphlet:

> "Even more instructive is the experience of Sweden. The system of accident insurance in that country is voluntary, with choice between the private companies and a State insurance institution established in 1902. When the department was organized it was placed in charge of a man who resigned the management of the largest Swedish employers' liability company to assume the position. The private companies have not been able to meet the competition of the State insurance institution. It is predicted that they will eventually be driven out of the field altogether. Their elimination has not yet

Digitized by Google

been effected completely, chiefly for two reasons; first, because some important employers are large stockholders in the liability companies, and consequently are reluctant to withdraw their patronage; second, because some of the mutual companies have managed to stay in the field, by reason of their inadequate reserves,—a practice which must ultimately result in an advance of their premiums, which will wipe them out of existence."

You are not managing a **State** company. You are running a **mutual** association. The State does not guarantee your policies.

You say that in Sweden the State is driving out both stock companies and mutual associations, but you do not say which is going first. Your reference to Sweden shows, if you are correctly informed, that while the mutual associations must ultimately advance their premiums, **"which will wipe them out of existence,"** the stock companies are still doing business in that country "because some important employers are large stockholders in the liability companies, and consequently are reluctant to withdraw their patronage;" and that

the
success
of
the
State
company
is
due
to
the
fact
that
it
is
managed

Digitized by Google

BY A STOCK LIABILITY INSURANCE COMPANY MAN, and presumably the best one in Sweden.

Can you offer your patrons any such inducement? And can you induce your Legislature to pay all your administrative expenses out of the State's general taxing fund, as Sweden does with her State insurance institution?

Anyway, how does all this (if true) prove that **mutual** liability insurance is better than **stock** liability insurance?

I submit that you are hard put for reasons against stock insurance when you say that in Sweden the stockholders keep it going by patronizing themselves at a loss to themselves.

It seems worthy of note that your pamphlet says not a word about Belgium, where workmen's compensation insurance has been competitively conducted by State-organized mutual associations and by private insurance companies for a number of years.

I quote from an editorial in **The Market World and Chronicle** of April 13th of this year as follows:

> " . . . There has just come into our hands an elaborate report on 'State Activities and Insurance,' made by M. Leon Lancker to the Second International Congress of the Representatives, Agents and Brokers of Insurance on Land, held in June, 1911. Much of this report is devoted to the condition of workingmen's insurance in Belgium; and the interesting thing about it is that it shows that all the advantages conferred upon the mutual insurance establishments by the Belgian State cannot prevent the private companies from getting a larger and larger share of the business . . . says the report, 'we cannot refrain from calling attention to the fact, confirmed by the results of the year 1909, as found in official sources (those of 1910 not having yet been published), that the insured, for their contracts under the law, have shown their incontestable preference for the fixed premium companies. Out of a total of premiums collected of twenty-seven million francs in round figures, these

> companies have realized about two million francs more than their share, taking into consideration all questions of proportion.' It may be added here that the statistics for 1910, now available, show that during that year the private companies in Belgium did even better relatively than in 1909. Out of a total of somewhat over twenty-six million francs in premiums received by themselves and the mutual funds together, the private companies took in about fifteen and one-half millions, against less than eleven millions for the mutual funds."

And why is your pamphlet silent concerning law-ridden New Zealand, where private liability insurance companies get eighty-five per cent. of the business in competition with the Government?

I quote from page 12 of your pamphlet:

> "The regular commission to agents on liability insurance is 25 per cent. In view of this fact, an eminent insurance expert, who has been called into consultation by the board of directors of the association, declares that the association could certainly deduct 25 per cent. of any rate charged by a private company, and feel perfectly secure that the rate would be adequate to cover the cost of insurance."

Then why has no plan of mutual or State insurance in Europe been able to do so without loss?

I do not know who your eminent insurance expert is. You have assured me that it is not your Consulting Actuary, Mr. S. H. Wolfe. From my knowledge of Mr. Wolfe, I am confident that he does not hold the views advanced by your eminent insurance expert, for Mr. Wolfe really is an expert in his line.

I am sorry to differ with any eminent insurance expert, but in this instance I am forced to, for the following reasons: **First.** Your eminent insurance expert assumes that "any rate charged by a private company" would be sufficient to

Digitized by Google

allow a commission of 25 per cent. and save the company from loss. This is not the case. The rates now charged by private companies are not sufficient for that purpose. Many rates are made on a 15%, 12½%, 10%, 7½% or 5% commission basis, and then result in loss to the companies. **Second.** Nearly all those agents who receive a commission of 25 per cent. pay out of that commission all the expenses of issuing policies, collecting premiums, carrying on all negotiations with the assured, and of the entire office work (other than that in connection with the payment of losses) in their localities. **Third.** The only saving a mutual association can make over a stock company is the one of commissions, and inasmuch as no stock company will pay a commission of 25 per cent. on compensation insurance, it is a debatable question whether it will not cost a mutual association as much to negotiate the details of such insurance through salaried men as it will stock companies through agents working on commission. Salaried men get paid all the time, the commission men get paid only when they work effectively.

In any event, it will take you many years to reach the degree of efficiency the United States Casualty Company has attained in the matter of

SERVICE
TO OUR
ASSURED.

I quote from page 13 of your pamphlet:

> "No system of insurance through private liability companies can ever work satisfactorily. So long as private companies—operating for a profit and interested to charge employers as high rates as possible, and to pay employees as little as possible in the way of compensation—intervene between the two parties concerned in this insurance proposition, there will be constant friction and complaint, controversy and litigation. The plan of mutual insurance

Digitized by Google

offered by the new association is the only one that meets adequately the demands of the situation in this respect."

How does it meet them? There is as much friction in mutual insurance as in any other kind of insurance. **Why not?**

You certainly are making a very large claim for your institution. Your particular plan has never been tried. The gentlemen who will be responsible for its management have never been tried in a similar capacity. According to your own words, it is a "vexing problem" you must work out. Your honorable directors will never pay the price it would require to obtain the services of a competent manager. The German system—which you appear to claim you are in a degree trying to follow, but of which your plan lacks the vital principles and methods to which its popularity is due—has been most severely criticised.

I
think
I
am
within
my
rights
when
I
retort
that
you
have
no
RECORD
behind
your
claim.

Digitized by Google

Moreover, I submit that the private insurance compan
WHICH CANNOT LIVE UNLESS IT GIVES SATISFAC
TION TO ITS PATRONS,

and
has
no
other
support,
is
more
likely
to
give
that
satisfaction

than is any mutual association, if conducted by those witl
out liability insurance experience.

If you give greater satisfaction than we give, you will b
entitled to the business and you will get it.

If we give the greater satisfaction, we shall get our sha
of the business, and you ought to be glad to have us get i
for you claim that your business "is not conducted fo
profit," you only want to see the best plan win. If we solv
the problem better than you can, you will be glad to say so
will you not? What you are after is to find out the bett
way to handle this "vexing problem," isn't it? We have ha
a lot of experience. You have had none. Do not our cre
dentials at the very least equal your own?

I do not think that, **for a long time to come,** we shall hav
as much "friction and complaint, controversy and litigation
as you will have, for the reason that we are better equippe
to avoid these foolish things. You appear to be most belli
erent, a characteristic which leads directly to "friction an
complaint, controversy and litigation."

Digitized by Google

To Massachusetts Employees' Insurance Association

I quote from page 14 of your pamphlet:

> "The English compensation act has not decreased litigation, it has increased it. It has not, so far as can be ascertained, tended to decrease the number of accidents; except in rare cases the employer paying a flat rate for his insurance gives no more attention than formerly to safety devices; the companies being as they are in a somewhat violent competition for patronage, dare not—and they do not—enforce safeguarding methods and devices."

May I call your attention to the articles in the February, March and April numbers of "Harvard Law Review," by Francis H. Bohlen, under the title of **"A Problem in the Drafting of Workmen's Compensation Acts—Personal Injury Arising Out of and In the Course of Employment"?**

I think that, after reading Mr. Bohlen's articles, you will agree that such litigation as there is in England (under the Workmen's Compensation Act) is not at all due to the fact that in that country employers insure their liability in private insurance companies.

Hon. P. Tecumseh Sherman, former Commissioner of Labor of the State of New York, says:

> "The assertion that the English compensation law has increased litigation is founded upon a confusion of ideas. Because the compensation acts of 1897 and 1906 in the aggregate have increased nearly tenfold the number of cases in which something is recoverable for work accidents they have naturally increased the number of cases which appear on the court dockets for trifling motions, etc., and each act gave rise to a number of cases involving questions of construction, which for a short time increased litigation. But in fact, the ratio of litigation has much decreased and the volume and delays of litigation have both enormously decreased. Comprehensive figures are not available; but the figures for one insurance company for the year 1908 (cited

Digitized by Google

by Mr. Packer in Appendix to Report of Congressional Employers' Liability Commission, p. 103) show that out of 10,343 accidents there were only 55 claims (0.5 %) for 'damages' under the retained law of negligence, and only 123 arbitrations before a judge (1.2 %) under the compensation act. And the expert testimony of Messrs. Gill and Clynes, Laborite members of the British Parliament, before the New York Employers' Liability Commission (Minutes of Evidence, 1910, pp. 77, 81, 82, 86, 90) was to the effect that litigation has very much decreased—that adjustments are generally automatic. In Germany the question is more complex. There is much complaint of litigation. . . ."

As respects your bold assertion that in England "except in rare cases the employer paying a flat rate for his insurance gives no more attention than formerly to safety devices; the companies being as they are in a somewhat violent competition for patronage, dare not—and they do not—enforce safeguarding methods and devices," permit me to again quote Mr. Sherman (who, by the way, is a recognized authority, as you doubtless know), as follows:

"Great Britain and its Colonies depend for accident prevention upon the employers' direct liability for compensation in conjunction with state regulations and factory inspection.

"The conclusions of the British Departmental Committee on Accidents, upon the effect of this system in accident reduction, are summarized in the Annual Report of the Chief Inspector of Factories for 1910, p. VII (Parliamentary Papers for 1911, Cd. 5963), as follows: 'They find that while the accident risk probably remained almost constant in the decade 1897–1907, any increase due to extended use of machinery and greater pressure being counteracted by improved inspection and by the greater care resulting from the Workmen's Compensation Act, it has decreased since 1907, owing to the causes named above and to the experience of employers in

Digitized by Google

the efficient guarding of machinery. They regard the increase of reported accidents up to 1907 as due almost entirely to improvement in reporting which, since that date has been less marked, so that the effect of lessened risk has shown itself in the statistics.'"

I quote from page 10 of your pamphlet:

"As a result of the German system there has taken place a decrease of fatal, serious and fairly serious accidents, although minor and comparatively unimportant accidents, at least from the physical point of view, have increased. It appears that the rate of accidents of all kinds per 1,000 full-time workmen in 1909 was 8.79, and in 1910, 8.19."

You have made considerable use of that highly instructive book "Accident Prevention and Relief" by Messrs. Schwedtman and Emery, published by the National Association of Manufacturers, although you do not say so.

I beg leave to quote from the same work, as follows:

"The death rate, due to work accidents, has increased in Germany . . . the number of light accidents is increasing rapidly. A study . . . shows that 21.5 per cent. of all accidents are of a duration of more than 13 weeks, while 78.5 per cent. are of a duration of less than 13 weeks."

Messrs. Schwedtman and Emery's figures are brought down to the end of 1908. Your figures are brought down to the end of 1910.

I applaud with you the efforts of the Germans toward the reduction of industrial accidents. I hope that our own people will follow their lead. However, I call your attention to the fact that it has taken the thoroughgoing Germans many long years to turn the tide. The "German system," to which you refer, was installed in 1885. During the year 1886, there were reported 100,159 industrial accidents in the

Digitized by Google

German Empire, and 10,540 were compensated. During 1908 there were 662,321 accidents reported, and 142,965 were compensated.

I call your attention to the increase in the ratio of the workmen receiving compensation to the total number injured. In 1886 one injured workman in ten received compensation. In 1908 one injured workman in five received compensation.

You give figures to show that during the year 1910 the ratio of accidents of all kinds per 1,000 full-time workmen decreased somewhat in Germany, and you assert that "**the English compensation act has not, so far as can be ascertained, tended to decrease the number of accidents;**" **that the English employer "gives no more attention than formerly to safety devices;**" but you offer no testimony in support of this assertion; whereas I submit high-class testimony which refutes your assertion.

I quote from page 7 of your pamphlet:

> "It is held by others that the cost of the compensation system will probably be less than the present liability insurance, since the great majority of accidents entail an incapacity of less than two weeks' duration, and consequently would not call for compensation under the new plan."

Permit me to again quote from "Accident Prevention and Relief":

> "In point of cost statistics show that approximately 75 per cent. of the total funds expended for accident compensation and prevention must be charged to the 21.5 per cent. of the accidents lasting more than 13 weeks, while only about 25 per cent. of the expenditures can be charged against the 78.5 per cent. of accidents lasting less than 13 weeks. This shows the importance of preventing serious accidents. Nevertheless the rapid growth in the number of light accidents and the serious part which

Digitized by Google

simulation and imagination play in this growth, have resulted in the concentrated effort of German experts to reduce the number of such accidents.

"It is pointed out that the careful attention which is now given to slight injuries enlarges the workers' ideas of their importance. This, and the fact that he knows pensioners among his acquaintances who receive, regularly, payments for past injury, act as powerful mental suggestion and promote simulation as well as imaginary ailments."

And how about that part of your new law which reads:

"During the first two weeks after the injury, the association shall furnish reasonable medical and hospital service, and medicines when they are needed"?

The Wisconsin compensation law has been in effect since September 1, 1911. Former Insurance Commissioner Fricke, of Wisconsin, organized the Wisconsin Mutual Employers' Liability Insurance Association, for the purpose of insuring Wisconsin employers under the Wisconsin law. The association has been doing business since the very day the law went into effect. It is doing quite a large business. Up to date it has paid out more for medical attention than for dismemberment and disability. Dr. Fricke writes me that, in his judgment, the medical feature of the law will always cost employers more than the dismemberment and disability features. In France, where the workmen's compensation law covers medical attention, the law is known as the "Doctors' Graft Law."

Moreover, if your new law does not put more money into the pockets of the laboring men of your State than the old laws did, will not your new law be denounced as a fraud?

I quote from page 19 of your pamphlet:

"Incidentally, it (The Massachusetts Employees' Insurance Association) will force the liability insur-

Digitized by Google

> ance companies to offer insurance under the act at lower rates than they would otherwise have given."

If that statement is true, then (incidentally) the liability insurance companies will force The Massachusetts Employees' Insurance Association to so conduct its business (if it can) that employers will prefer to insure in it rather than in a liability insurance company. If the competition of your association forces **down** our **rates,** our competition will force **up** your **service.** Therefore employers will gain by **having both of us in the field.**

I quote from page 17 of your pamphlet:

> "It is not true that the employer will have to carry liability insurance in a stock company if he elects to become a subscriber of the association, for the policy issued to him will cover his liability on those employees who do not choose to come within the act, as well as the compensation for those who do."

I am not a law judge, I am not a lawyer, but as I read your law this is not absolutely so **under all circumstances;** for your subscriber will not be protected against the excess liability imposed upon an employer who personally or through a superintendent is guilty of "serious and wilful misconduct."

* * * * * * *

Of course you and I are in accord concerning the humanitarian aspect of **workmen's compensation** laws as distinguished from **employers' liability** laws, and I submit that we ought not to be out of accord in trying to find a "satisfactory final solution of this vexing problem of workmen's compensation."

When your friends were trying to induce your Legislature to drive us out of Massachusetts we sent a circular to our Massachusetts policyholders from which I quote the following:

Digitized by Google

To Massachusetts Employees' Insurance Association

> **" No matter what you think of it, the Workmen's Compensation Law has come to stay, and you should TRY IT OUT. . . . The pig-in-the-poke way is to GET IN The Massachusetts Employees' Insurance Association without any means of knowing how you are to GET OUT—without knowing how much it will COST to get out. The safe-and-sane way is to insure in some liability insurance company authorized by the Insurance Department of Massachusetts to carry your risk, and to pay a FIXED and CERTAIN PREMIUM therefor."**

In that circular we also said:

> **" We have no quarrel with the legislators who enacted the new law; indeed, we are in favor (from every point of view) of workmen's compensation laws as distinguished from employers' liability laws. We have no quarrel with The Massachusetts Employees' Insurance Association. We have no quarrel with any employer who insures with that Association instead of with our Company. But we do not want our Company legislated out of business. Would you? We want to remain in the field as a competitor of all comers, and stand or fall according to our merits. We think that it is unfair for the friends of The Massachusetts Employees' Insurance Association to ask that their Association shall be protected from competition."**

In your pamphlet you quote (and endorse) George W. Anderson, Esq., as saying:

> "The insurance adjuster is the correlative of the ambulance chaser; both are, viewed in proper perspective, parasites—creatures of strife and inhumanity; both should be eliminated before industrial accidents can be humanely and economically dealt with."

Even admitting that the adjusters employed by my company are "creatures of strife and inhumanity" (which

Digitized by Google

characterization of them causes me to have a feeling of extreme disgust for Mr. Anderson), have not your lawmakers, by enacting your Workmen's Compensation Law, removed the opportunity for their continuing the practice with which they are charged by Mr. Anderson? And will not your association call for adjusters just the same as my company?

The old **L—A—W—S** caused the "**strife and inhumanity.**" And that is why, I submit, you have enacted the **N—E—W L—A—W.** However just the old laws were in theory,

they
certainly
worked
out
inhumanly
IN PRACTICE.

But why charge liability insurance companies with the inhumanities of the old laws? They did not make the old laws. **They are in favor of workmen's compensation laws.**

In your pamphlet you also quote (and endorse) a gentleman whom you call "one of the foremost insurance experts in this country," as follows:

> "Every manufacturer or employer of labor who refrains from doing so helps to perpetuate a system of so-called insurance which has been justly condemned by the employers' liability and workmen's compensation legislation in the several states, and which has never yet shown its inherent capacity of successful adaptation to changed conditions of public policy."

If the words quoted mean that the writer thinks liability insurance companies should have adapted their settlements to conform "to changed conditions of public policy,"

Digitized by Google

will
you
please
point
out
how
they
could
have
done
this
BEFORE
THE
LAWS
WERE
CHANGED

to conform "to changed conditions of public policy"?

Liability insurance companies agreed to indemnify their policyholders against claims for "damages" imposed by law and arising from accidental bodily injuries to their employees.

For years all liability insurance companies have offered for sale policies which provided for the payment of employee's wages while they were laid up from accidents,

IRRESPECTIVE
OF THE QUESTION
OF LEGAL LIABILITY,

but only a very few employers bought such insurance, for the reason that it cost much more than legal liability insurance, and for the reason that by purchasing such insurance they could not escape their legal liability.

Who was at fault?

If Mr. Anderson and the gentleman whom you designate as "one of the foremost insurance experts in this country,"

will be fair and acknowledge that the fault is in the law as it was, and in those employers who would not take the chance of being mulcted in heavy "damages" even though they humanely provided for "compensation" for their employees, I shall gladly agree with them.

The only escape
for the employer,
for the employee, and
for the insurance company
was the enactment of workmen's compensation laws.

Now that you have such a law, why abuse the insurance companies for the workings of the old law?

Now that you have not succeeded in securing the entire field of compensation insurance to yourself, why not be willing to live in peace and harmony with us? We have the same legal standing in your good State as your good self.

Permit me to again refer to that part of your pamphlet which reads:

> "The English compensation act . . . has not so far as can be ascertained, tended to decrease the number of accidents. . . . As a result of the German system there has taken place a decrease of fatal, serious and fairly serious accidents, although minor and comparatively unimportant accidents, at least from the physical point of view, have increased. It appears that the rate of accidents of all kinds per 1,000 full-time workmen in 1909 was 8.79, and in 1910, 8.19. . . . This showing is altogether favorable to the plan of mutual insurance as offered by The Employees' Insurance Association in this State."

I again call your attention, for whatever you may believe it to be worth, to "Accident Prevention and Relief," and quote therefrom as follows:

> "Lengthy discussions with German authorities and a thorough study of the work just published by the

Digitized by Google

Society of Prevention Engineers, which we have before mentioned, bring out these additional thoughts on the subject:

"1. Without strenuous prevention efforts industrial accidents grow at a tremendous rate. It is not fair to stop at counting the actual decrease, we must also count the probable large increase which would have taken place without prevention efforts.

"2. More and more slight accidents are reported each year. Every effort of the government and of employers' associations is directed toward prompt reporting of all accidents. There are penalties provided for violation of this rule and it is, therefore, not surprising that workers report slight injuries now which years ago were left entirely unnoticed. In view of this, the increase in number of reported accidents does not necessarily mean an increase in actual accidents.

"3. German industries have developed wonderfully, and the necessity of employing constantly increasing numbers of 'green hands' on machines in order to keep 'supply' up to 'demand' has made necessary the recruiting of workers from among foreigners, who do not speak the language of the country, cannot understand orders or read prevention rules.

"All of which points to this conclusion. Accident prevention is not only possible, it is absolutely necessary, but it is a slow process. Whosoever approaches it with the belief that the problem can be solved in the United States in a few years, or without a systematic, intelligent, national movement which must have the co-operation of all interested forces and especially the full backing of progressive legislators and employers, is over-confident to say the least.

"Among the thousands of safety appliances which we have examined in the safety museums and in the factories of the Continent many are very simple; others are very complicated. Some are very practical; others are not at all adaptable to our industries or our way of doing things. It would require a large volume to give even a superficial impression on this

Digitized by Google

subject, and after explaining every safety device or prevention appliance which we have seen or heard of in our investigation, we would probably be told by some experts that there is little that is new among them. Most of those appliances are known somewhere in the United States. **Many of these devices have been illustrated in the literature of American insurance companies.** One of our best prevention experts tells us that during a recent investigation tour in one of the European countries he was shown 'the best and latest' safety device for punch presses, which he immediately recognized as a patented invention of his own, which has had a limited use in the United States for many years."

I have underscored some words that you may not overlook them.

Hugh Hastings, writing in The North American Review for this very month of May, says:

"More has been written of the German method than that of any other country, and it is the general impression of employers of labor and of thorough students of this subject that the German method has proved an unqualified success and would work equally well if transplanted to our shores. But a literal analysis of that law and exhaustive study of the statistics prepared by the Government by no means justify the contention of its success in or adaptability for this country. . . . No less an authority than Privy-Councilor Ferdinand Friedensburg, late president of the senate of the German Imperial Insurance Office that enforces the law, declares the system is a 'costly, inefficient and demoralizing failure.' . . . A system of insurance regulated not only by the Government, but by the trades themselves, that has proved a hot-bed of corruption, malingering, and fraud requiring a tremendous and expensive organization to handle, involving an increase in rates in some instances of five hundred per cent. in twenty years, would not,

Digitized by Google

from the standpoint of an American manufacturer, be considered a success or meet the endorsement of either workmen or employers. Therefore the German system should be dismissed without further consideration.

"It is also claimed by several writers that the German compensation system has brought with it peace and contentment in industrial conditions as against unrest in England, but as there were in 1907, 2,266 strikes in Germany affecting 13,092 establishments and 445,165 employees, as against 601 strikes and 100,728 strikers and locked-out employees in England for the same year, this claim cannot be allowed." (The author of the article states that he obtained his figures from the Department of Commerce and Labor.)

May I also call your attention to the following quotations from a speech made by Mr. H. E. Wills, Joint Legislative Representative of the Railway Brotherhoods at the workingmen's compensation session of the annual meeting of the National Civic Federation, at Washington, March 6, 1912, as follows:

"There is no lack of general information as to the operation of the English and the German law, so far as the government and the employer were concerned, but we had some doubt as to how the laws in those countries were looked upon by the beneficiaries. On due consideration it was decided by the chief executives of the four organizations of railroad employees in train service that in order to secure, as nearly as possible, up-to-date, first-hand information from the beneficiaries, I should visit these countries, and as far as possible secure the desired information. I spent some time in England, and during that time I met, largely through the courtesy of railway employes' organizations, a great many who were then actual recipients of benefits or had been beneficiaries under the English law. **I also visited Germany, but soon became satisfied that we could not, at least for the present, adopt here anything like their law."**

Digitized by Google

The black letters are mine.

Mr. Wills represented, by authority, the Brotherhood of Railroad Trainmen, the Order of Railway Conductors, the Brotherhood of Locomotive Firemen and Enginemen, and the Brotherhood of Locomotive Engineers.

I again refer to "Accident Prevention and Relief" and quote therefrom as follows:

> "The great internal harmony which Prince Bismarck considered of prime importance seems not to have been realized, as is evident from many of the letters of German manufacturers contained in the Appendix. Dr. Spiecker, a leader among German industrialists, president of the Siemens & Halske Co., and chairman of the League of German Employers' Associations, said, during a recent speech:
>
> "'It is, unfortunately, true that the first object of social insurance, which was to bring lasting internal peace to our citizens, has so far not been realized. Nevertheless, it appears lately that at least a small ray of light has penetrated the darkness, and that there is little realization among workers of the benefits derived from our social insurance. On the other hand, economically and industrially, social insurance seems to have benefited Germany.'
>
> "In a recent publication Prof. Dr. Hartman, the best-known technical expert on accident prevention in Germany and one of the highest government officials, says:
>
> "'Various arguments have been made for the exhibition of the German national insurance system at various foreign expositions. It was said that calling attention to the great social monument which Germany has built up in this direction must surely increase the respect of the world. On the other hand, it was argued that since German employers are placed under heavy burdens because of their large share of workers' insurance premiums, it would be well to have other countries know and imitate Germany's system. Foreign countries having to

Digitized by Google

carry the same burden would make the question of international trade easier for Germany.'

"There is an additional reason for the comparatively low cost of the German system. Much of the expense of the Government Insurance Department is paid out of general government funds.

"Another phase of the contributory principle as practiced in Germany needs exposition here. Contributions or taxation means representation. German workers paying 17 per cent. of the accident compensation fund in return have representation (by election) in the arbitration courts, the appeal courts and the commissions which draft accident prevention regulations. Workers have no voice in the administration or management of the compensation funds. Socialistic labor leaders have been contesting for such representation for the political and other influence it gives them over the working class. Rather than give this representation German employers would pay the whole premium.

"Sickness insurance, of which the workers pay two-thirds and the employers one-third, is almost entirely in the hands of Socialistic labor leaders. This control is so obnoxious to the government and to the majority of the employers that a larger contribution (50 per cent instead of 33 per cent) and a proportionately larger percentage of representation is planned for the employers now.

"Compensation insurance will have a hard period before it can come down to equitable standard rates. Competition is going to play havoc with insurance rates, just as it has in England, and unscrupulous promoters are going to take advantage of the fact that a final accounting in accident insurance cannot be brought about in less than fifty years. That is such a long time that the promoters can make money and get out, leaving the insured employers and workers to hold the bag. The strictest kind of insurance laws and the closest kind of scrutiny on the part of employers will only lessen, it will not eliminate this danger.

"The establishment of mutual fire insurance has

Digitized by Google

stimulated the fire insurance business, and the establishment of mutual compensation insurance will stimulate compensation insurance business in a similar way. As long as the end is assured the employer should be given all possible freedom in selecting his insurance. The success of a system and the interest of all concerned, demand that every method which can be provided for compensation shall definitely assure the compensation to the injured worker when it becomes due.

"The philosophy and the economic and legal basis upon which Germany's system is built, as well as its advantages and disadvantages, can best be judged from a statement which we have secured from G. Neisser, LL.D., Imperial Counsellor, and one of Germany's foremost legal authorities on this subject. A translation of his statement is as follows:

"'It must be acknowledged that some of the small employers are groaning under the insurance burdens. . . .'"

Dr. Neisser's statement is a long one, and full of praise for the German system, but I give only the above, and the following:

"Every civilized nation must, of course, adapt its accident insurance system to its own economic and social conditions and to the characteristics of its people. . . ."

In this connection, permit me to call your attention to the fact that politics plays no part in the German system, and that it will play an important part in State insurance (which you endorse) in this country.

In conclusion, I desire to say that it would be useless for me to conduct a public argument with you as to your main proposition that you alone have a right to exist. I have, however, the responsibility of a well-established liability insurance company upon me, and I conceive it to be my duty to my company to protect its business in Massachusetts in

Google

every honorable way. The Legislature of Massachusetts has in its discretion determined that my company and other similar companies are to have an opportunity to do their part towards making the new doctrine of workmen's compensation a success in that State. Your association and my company are representatives of a different conception of the most advantageous method of carrying out the new doctrine. In the long run, as between you and ourselves, the decision of the community will rest infallibly upon the results which we show. I think it will prove to be very largely a question of MANAGEMENT.

This is no reason, however, why there should be any misstatements of facts upon either side. And your pamphlet seems to me to abound in misstatements of facts. I believe it to be my duty, as president of the United States Casualty Company, to call public attention to these, as their general acceptance without contradiction would obviously be detrimental to a fair trial of what private liability insurance can do.

In calling attention to your misstatements I have tried to be dispassionate and I trust I have not been obnoxious to the honorable gentlemen who constitute your Board of Directors.

I am sure that every broad-minded stock liability insurance company official in the land joins me in wishing your association success, for its failure would bring into disrepute the entire business in which we are engaged.

Most truly yours,

EDSON S. LOTT,

President.

P. S.—Even from Germany, where the doctrine of the superiority of State organized insurance is supposed by many to have triumphed completely, there comes a word of warning from a most distinguished source against being too ab-

Digitized by Google

solute in making such claims. Professor Alfred Manes, of Berlin, who is undoubtedly the most eminent authority in Germany to-day upon the entire subject of social insurance in all its forms, including workmen's compensation, sickness insurance, invalidity insurance, etc., and who has for years had a most influential part in the formulation of the German legislation governing social insurance, has very recently delivered an address on "The Boundaries Between Private and Social Insurance" (published in the May, 1912, issue of the Zeitschrift für die gesamte Versicherungs-Wissenschaft, of which Professor Manes is editor). Though naturally a firm believer in the Bismarckian theory of State-controlled social insurance, Professor Manes in the course of his address makes the following significant statements:

> "Numerous establishments in other countries and some also in Germany prove to us that privately organized undertakings are not only thinkable as carriers of social insurance, but are also actually in existence as such. Apart from other reasons, the dividing line between the employment of private undertakings for the purposes of social insurance and the employment of organizations of a public character to that end will depend upon the level of expense. The opinion is nowadays commonly heard expressed that private insurance invariably conducts its business more expensively than social insurance. This, however, is true only in a very relative way; for just as there are individual private insurance enterprises whose administration costs are far higher than those of many publicly organized institutions, so also it is possible to adduce statistical material to demonstrate the opposite condition of things. It is almost without exception forgotten (and even von Ziviedineek-Sudenhorst falls into this error in his remarkable 'Sozial politik') to take into account the high concealed administration costs of social insurance. Those only are looked upon as the administration costs of social insurance which

Digitized by Google

> appear in the budgets of the insurance organizations, and not at all those large sums which in consequence of social insurance either burden the financial results and the accounts of other State departments, or by reason of the relief given from postal charges and other dues and the like privileges represent a loss of receipts to these departments."

Will you be able to enjoy free postage, telegraph and telephone, free transportation on the railroads for your inspectors, free expressage, the free services of auditors and of lawyers, and other similar contributions of the taxpayers which are so important a factor in making the expense ratio of some (not all) of the German social insurance organizations look low in comparison with what less favored institutions must spend?

E. S. L.

Digitized by Google

LETTER NO. 8

A rejoinder, to E. Spencer Baldwin, Secretary, Massachusetts Employees' Insurance Association, on the same subject as No. 7

New York, August 21, 1912.

My dear Sir:

I have read with interest your latest pamphlet entitled "Two Exhibits in re-Compensation Insurance."

Permit me to congratulate you on its comparatively temperate tone.

I feel very sure that, in the long run, you will not only make friends and policyholders by pursuing a temperate course, but will also thereby aid the general cause of workmen's compensation, which in turn will benefit both employer and employee.

A continual wrangle between the stock companies and the mutual associations will be seized upon by the advocates of so-called state insurance as one good reason why their plan should be tried. You and I agree that any plan of state compensation insurance would prove to be a public calamity, and we ought to agree that the officers of stock compensation insurance companies and mutual compensation insurance associations should spend all their time in perfecting their service to their patrons, to the end that there will be no demand for anything better.

But while you continue to issue pamphlets attacking stock companies with arguments not sustainable, in my opinion, by the facts, I shall feel compelled to refute your arguments.

For this reason, I'm going to say some things to you in reply to your "Two Exhibits in re-Compensation Insurance."

You say (in your latest pamphlet), "In each of these respects (the best service, the best protection and the best

Digitized by Google

rates) the Massachusetts Employees' Insurance Association offers to employers more advantageous terms than they can obtain from the liability companies."

Is this really so? Where is your record?

Can you, from the very start, give better **service** than my company?

It seems to me that your assertion is **presumptuous.** My dictionary says: "One is 'presumptuous' who takes things to himself before he has acquired any title to them."

You had not even started in business when you made presumptuous claims.

My company has been doing a successful business in Massachusetts for over seventeen years.

You say: "The (your) association is a strictly mutual private association."

Wherein, then, is it any better than any other strictly mutual private association, or any stock company, unless and until you make it so?

You say: "If Mr. ——— honestly desired to obtain a broad and fair understanding of the situation, he should have given a representative of this association an opportunity to state our side of the case."

But in the two pamphlets you have last published, have you stated your case "fairly"?

You say: "It (the Massachusetts Employees' Insurance Association) is organized to provide insurance covering the compensation and liability payments under the new law at the lowest possible cost. It cannot provide any other kind of insurance,—such as boiler or flywheel insurance. It does not sell insurance in 'prize packages,' but offers 'bargain prices' in one particular kind."

You brag about your ability to "exclude undesirable risks" in the following words: "In short, while the law permits any employer in the State to become a subscriber (policyholder), the association can fix the terms of subscription and

Digitized by Google

the conditions of membership in such a manner as to exclude undesirable risks."

You talk as if you intended to use arbitrarily your power to "fix" any applicant whom you may regard as undesirable, but you give no limit as to what, in your opinion, constitutes an undesirable risk.

Will you regard as "undesirable" a policyholder who is unfortunate in having many accidents? If so, the employers of Massachusetts should be thankful to your legislature for not permitting your friends to secure for you, through legislative enactment, a monopoly of all the workmen's compensation insurance in Massachusetts. Your friends certainly put up a hard fight to secure that monopoly for you.

You say: "It may be pointed out further in this connection that the rates of the association have been calculated on the principle of absolute adequacy. That is, the rates, which have been computed by the best actuarial expert available, are intended to cover the entire cost of the insurance, in order that subscribers may count upon immunity from assessment."

Then why do your by-laws (which are legally binding upon your subscribers) provide that you may "assess" your subscribers for an amount equal to 100 per cent. of the rates your expert has named? And, by the way, can you not—under certain circumstances—make a still further assessment?

You say: " . . . there is the strongest possible incentive to economy, as the employers themselves furnish all the funds and control the expenditures."

Only half true. The employers certainly "furnish all the funds," but just as certainly they do **not** "control the expenditures." Your pen must have slipped when you made that statement.

You say: "The argument that the association represents a socialistic trend to State monopoly in all kinds of business is pointless. The association has no monopoly."

Digitized by Google

If it is pointless it is so for the reason that your friends failed in their efforts to give it a very sharp point. Your friends endeavored with might and main to induce the Massachusetts legislature to give you a monopoly.

After you have been beaten in your efforts to secure a monopoly, it is not graceful to claim the virtue of open competition, is it?

You say: "The liability of subscribers for assessment on their contingent mutual liability is not unlimited, but is fixed in the by-laws of the association at 100 per cent. of the cash premiums."

Suppose the 100 per cent. is not enough? Then you fail, do you not? Or can you—under certain circumstances—make a still further assessment?

You say: "All insurance is based upon the principle of loss distribution."

But you have to *confine* your loss to the Commonwealth of Massachusetts, do you not? You cannot "distribute" it beyond the borders of that State, can you?

Insurance is based on the law of average, and you must agree with me that the area of distribution must be broad enough to practically eliminate the element of chance in order that the law of average may operate. I maintain that the area of distribution open to your association is not broad enough to warrant the confidence in the success of the association which is reflected in your statements.

In the New York Evening Sun of July 2 there was an item reading as follows:

100 GIRLS JUST ESCAPE DEATH IN BOSTON FIRE

Disaster Like New York's Triangle Horror Averted.

Boston, July 2.—A disaster similar to the New York Triangle shirtwaist fire was narrowly averted here to-day when

Digitized by Google

one hundred girls employed in the Willowcraft Manufacturing Company's plant on Massachusetts avenue just escaped burning to death.

Four were taken down extension ladders unconscious, twenty-five swung to branches of trees which reached the windows and then dropped to the ground and six firemen were overcome.

A traffic pocket in which three engines and two ladder companies were caught prevented the apparatus from reaching the scene until just in time to take the girls from the windows and crowded fire escapes. The damages will exceed $25,000.

Had you carried that risk and all those persons had been burned to death, what would have happened as respects your association?

If a stock liability insurance company had carried the risk and the loss had been several hundred thousand dollars, the entire loss would have been divided between two-score companies, and no shock would have been felt by any one of them.

You say: "It may be remarked here that if the companies undertake to sandbag the association out of existence, they would pave the way for their own elimination, since the failure of this association would give rise to a general agitation for State insurance in this Commonwealth."

You didn't think of this last winter when your friends were trying, before the Massachusetts legislature, to sandbag all your competitors out of business, that you might have a monopoly, did you?

You say: "The association offers to employers the advantages of lowering the cost of insurance at the outset, promoting the systematic prevention of accidents, and the consequent reduction of insurance cost in the long run, and establishing more amicable relations with employees."

Digitized by Google

To E. Spencer Baldwin

Your association does **not** offer the advantage of lowering the cost of insurance at the outset. You don't know **what** the cost will be at the outset, hence you make your customer agree to pay 100 per cent. more, if necessary, than the premium you name at the outset. And perhaps you can assess beyond even this 100 per cent.

You cannot at the outset successfully compete with the old companies in the systematic prevention of accidents, for you have not the necessary equipment. In the practice of, as distinguished from the theory of, accident prevention, your competitors have a tremendous advantage over you, have they not?

No halo surrounds you which will make it possible for you to surpass the old companies in establishing more amicable relations with employees.

You say: "Private companies operated for profit, and consequently interested to keep the rates of insurance as high as possible, with no effective incentive to push the adoption of measures for accident prevention, and with the temptation to drive hard bargains with employees in distributing compensation, cannot offer advantages in the respects enumerated that are comparable with those promised through the new association."

Well, **yours** is a "private" institution, isn't it? You say so yourself, in the following words: "The association is not a state company, institution or department, but a strictly mutual private association."

As for the rates of the stock companies, your Insurance Commissioner withheld his approval of some of the rates submitted by some of the stock companies, because the rates were not high enough in his judgment. One of the arguments advanced by your friends, when they were trying to drive all stock companies and all mutual associations but yours out of the state, was that if we were permitted to compete with you we would drive you out of business by underbidding

Digitized by Google

you on rates. And presumably that is why your Insurance Commissioner was empowered to cause all stock companies to charge "adequate" rates.

Concerning our lack of "effective incentive" to prevent accidents, you ought to think it sufficient that we must meet your competition. On what ground can you justify your assertion that you possess ability superior to our own in this respect? Where did you get your experience? Where is your record? You have had no experience, hence you have no record. You have no man in any position of responsibility who has had any experience as a liability insurance underwriter.

Why shall we be tempted to drive harder bargains with employees than your association? Both of us must pay the amount the law calls for. It is all laid down in the law. If you pay more than the law calls for, you will be doing it with the employers' money, will you not? And are you claiming credit for paying out another man's money without his consent and without any legal obligation on his part? As a matter of fact, are you not blowing hot and blowing cold? First, you claim that you will pay employees more freely than we will. The more freely you spend your policyholders' money, the more premiums they must pay you. Then, you claim that your membership will "have the strongest interest in securing the highest attainable degree of economy." Again, you say that your association "is organized to provide insurance . . . at the lowest possible cost."

"Lowest possible cost" means prudent business management, not personal aggrandizement through the liberal use of other people's money. Your association is a business enterprise, isn't it? It is not a charitable institution, is it? You agree to follow the law, the same as we do, for your policyholders. You do not expect that the public will regard you as likely to be more law abiding than we shall be, do you?

You say: "Shall employers co-operate on the mutual

Digitized by Google

To E. Spencer Baldwin

basis, . . . with a low cost of insurance, under a system that **promises** to effect a steady reduction of accident loss, and by methods that will tend to bring about better feeling between employer and employee . . . ?"

I have underscored your word "PROMISES" because **promises** are ALL, at this date, which you can offer your policyholders.

I challenge you to produce evidence to refute my assertion.

May I again suggest that you stop trying to poison the public mind against your competitors, and—instead—devote your talents toward giving your policyholders such service as you are "promising"? You will have your hands full doing that one thing alone.

You will get some business.

We will get much more business.

We both wish the new law to succeed. Let's co-operate in making the law a success.

I wish you to succeed. Your failure would tend to bring compensation insurance associations and companies into disrepute.

Will you lose by showing a generous spirit toward your competitors?

There is enough room in Massachusetts for all of us, and I trust that you will long remain one of us. You won't be in such bad company.

Most truly yours,
EDSON S. LOTT,
President.

Digitized by Google

LETTER NO. 9

Dangers in Requiring Insufficient Reserves by Mutual Insurance Associations, with Special Reference to the Michigan Plan

To Hon. Francis H. Bohlen, Secretary Industrial Accident Commission of Pennsylvania.

New York, April 1, 1912.

My dear Sir:

The Michigan Workmen's Compensation Law gives the employer the option

(1) **To carry his own risk,** if he can satisfy the Employers' Liability and Workmen's Compensation Commission that he is solvent and will be likely to remain solvent; or
(2) **To insure in any stock liability insurance company** duly licensed to transact compensation insurance in Michigan; or
(3) **To insure in any mutual compensation insurance association** duly licensed to transact business in Michigan; or
(4) **To pay over to the Commissioner of Insurance** the workmen's compensation fund and have him administer it.

You ask my opinion of this phase of the Michigan law.

I think well of it as a whole, but I believe that it can be improved.

It looks a bit queer for a Commissioner of Insurance, who is supposed to sit in judgment to see that the insured and the insurer each get a square deal, and who must be careful lest one insurance company obtains a Commissioner-created advantage over another insurance company,

Digitized by Google

to
himself
become
a
competitor
of
those
whom
he
supervises
and
over
whom
he
has
great
control.

* * * * * * *

It is well to provide, in any workmen's compensation law, for the organization of mutual compensation insurance associations

P R O V I D E D

they are required to maintain adequate R-E-S-E-R-V-E-S, the **same** reserves as stock compensation insurance companies are required to maintain. The early losses in connection with compensation insurance will prove deceptive, for they will **mature** more slowly than in any other line of insurance. In life insurance the liability of the insurance company is fixed when the insured dies. The liability of the fire insurance company is known as soon as the fire occurs and the value of the property burned or damaged is ascertained. In glass insurance the breakage of the glass immediately established the loss to the insurance company. As soon as the hail

Digitized by Google

strikes, the loss of the hail insurance company can be computed.

But
an
accident
to
an
employee
may
mean
nothing
at
all
or
very
little,
or
a
great
deal

to the compensation insurance company; while the PAYMENTS of compensation arising from accidental bodily injuries to employees will extend over a period of years and will be cumulative in character, the compensation payable increasing in volume each year even when the number of accidents each year remains stationary. There is not the same necessity for stringent reserve laws for mutual fire insurance companies as for mutual compensation insurance companies, and for the reason stated. Mutual fire insurance companies would also need stringent reserve laws **if the buildings they insured could and often did burn, little by little, for a dozen years, now apparently ceasing, only to break out afresh,** and the actual insurance losses could not be definitely ascertained until years after the fires **started;** for

Digitized by Google

under such circumstances **those who insured in early years would saddle a part of their just losses on those who insured later,**

unless
the
early
customers
were
required
to
pay
enough
premium
to
carry
their
risks
through
to
the
end;

the alternative being that the time will come when the collectible assessments will not pay the accumulated losses. Kindly read my paper entitled "State Employers' Liability or Workmen's Compensation Insurance."

If mutual companies can make a saving in EXPENSES, because they will not be obliged to pay agent's commission, well and good; but they should not be permitted to sacrifice future SECURITY through present insufficient accumulation of RESERVES.

Stock insurance companies should not be given a monopoly; mutual insurance companies should not be given a monop-

Digitized by Google

oly; self-insurance should not be given a monopoly; either should be permitted, **with proper safeguards for each.** No semblance of state insurance should be permitted under any circumstances whatsoever.

The only argument for state insurance which I admit is sound is that, by making it compulsory, the solvency of the employer—as respects the compensation due an injured employee—is guaranteed;

and inasmuch as, finally, compensation insurance must be compulsory, other than in exceptional cases, ways and means must be provided whereby all forms of insurance must actually guarantee that all injured employees will secure the full compensation duly awarded them.

The law should permit the injured employee who cannot collect from his employer the compensation due him, **to collect it from the company which insures the employer;** and the law should require such insurance company, whether STOCK or MUTUAL, to maintain a sufficient **reserve** so there will be no question concerning its ability to pay all its losses.

Insurance companies (all kinds) should be required to maintain adequate reserves to meet all losses; insurance companies should be required to guarantee the solvency of their assured; employers who establish their likelihood of permanent solvency should be permitted to carry their own risks; those employers who carry their own risks should be

Digitized by Google

required, at the discretion of the court, to give security for the payment of the compensation awarded.

In another letter I shall try to prove that the State should legalize premium rate-making bodies under state supervision.

Most truly yours,

EDSON S. LOTT,
President.

Digitized by Google

LETTER NO. 10

To Whom shall Workmen's Compensation Laws Apply? With a General Discussion of Scope of Such Statutes

To Hon. Harvey E. Garman, Secretary, Employees' Compensation Commission of Colorado.

New York, April 5, 1912.

My dear Sir:

I quote from your circular without date as follows:

> "To the Members of the Employees' Compensation Commission and all other persons interested.
> Gentlemen:—
> "To aid the members of the Commission, as well as others interested, in considering the various points which legislation providing for Workmen's Compensation present, I beg to submit the following memoranda:
> "It is desirable that the members of the Commission should formulate their views as to the general nature of the scheme and as to working details, so that at the first deliberative meeting of the Commission some basis of action may be adopted. The subject ranges itself under the following heads:"

I take the liberty of including myself among the "other persons," that I may address myself to the questions you raise.

I quote from your circular:

1. WHAT INDUSTRIES SHALL BE COVERED?
   ALL;
   Dangerous or hazardous (enumerate);
   Domestic and household, etc.;
   Agricultural;
   Pastoral.

Digitized by Google

To Hon. Harvey E. Garman

2. WHAT PERSONS SHALL BE COMPENSATED?
All workmen;
Manual laborers;
Clerks, etc.;
Salaried employees;
State and municipal employees;
Domestic and household servants;
Agricultural employees.

I group your questions 1 and 2 because I can answer both questions in the same words.

My answer is **yes** to your two general questions and to each of the sub-divisions thereof.

If you are to pass a law applying to **any** class of industries and to **any** class of workmen, it should cover **all** industries and **all** workmen.

If one or two or three or more barbers working for a boss barber are entitled to compensation for disabling accidental bodily injuries, why are not one or two or three or more laborers working for a boss farmer entitled to the same protection?

Why give compensation to the horseboy in a livery stable and let the cowboy on the ranch shift for himself?

Is justice fully served by "compensating" the hired man who is hurt in the factory, and extending only "charity" to the hired girl in the kitchen who is blown up by an explosion of the gas stove?

Moreover—

If your bill embraces all industries and all workmen,

EVERYBODY
WILL BE
INTERESTED,

and everybody will be more likely, in the long run, to get a fair-play deal. If you cut out farm laborers, most of the farmers in your legislature will be FOR your bill, no matter

Digitized by Google

how drastic it may be. If you include farm laborers, most of the farmers will be AGAINST it. By making the farmers "parties at interest" you will have a powerful ally in keeping the law within reasonable limits. If you also cover domestic servants, you will immediately and vitally interest every citizen employing a "maid of all work," and many such will then study the scheme sufficiently so they will have a more or less intelligent conception of what it means to those who have large numbers of employees, as well what it means to the employees.

We do not, as a people, pay much attention to laws (even tax laws) which affect us only **indirectly,** whereas we give close attention to those laws which **open our own pocket books.**

I quote from your circular:

> 3. UPON WHOM SHALL THE BURDEN OF COMPENSATION REST?
> Upon employers alone;
> Upon employers and employees;
> Upon employers, employees, and the State;
> Upon a fund to be provided by all in like industry, i. e. by classified industries, either by employers alone or by employers and employees, or by both with State contribution?
> In case of independent contractors, what responsibility shall be placed on the principal?

The employer alone should pay all of the compensation.

The workman should not be required to contribute any part of a fund which the law says is due him. If you think the workman is entitled to ninety cents, give him ninety cents. Don't give one hundred cents by making him first contribute ten cents.

As for the argument that the workmen will be more careful if they contribute to the compensation fund, it is—of course—based on the assumption that mankind in general and work-

Digitized by Google

men in particular are universally influenced by an enlightened self-interest. I think the argument far-fetched in the present instance.

In any event, whatever amount the workmen contribute must, soon or late, be added to their wages.

The state should not pay any part of the compensation fund, because each industry should stand on its own bottom and pay its own share of the compensation, the most hazardous and the most numerous the greatest share and the least hazardous and the least numerous the smallest share. Then the burden falls automatically where it belongs.

I quote from your circular:

> 4. IF THE ENTIRE BURDEN OF COMPENSATION IS CAST ON THE EMPLOYER, HOW SHALL THE ACT BE MADE EXCLUSIVE OF COMMON LAW OR STATUTORY REMEDIES?
> Shall both employer and employee be compelled to elect whether the statutory compensation shall be to the exclusion of other remedies? How shall they respectively evidence their elections? What shall be the presumption as to their electing to accept the statute, or to abide by the old law in case of silence?

Draw your bill so both employer and employee will be IN

unless
they
elect
to
get
out.

See the New Jersey Workmen's Compensation Act.

If your proposed law IS A GOOD THING, make its acceptance easy and its rejection hard for all parties interested.

Digitized by Google

I quote from your circular:

> 5. IF THE EMPLOYER DOES NOT ELECT TO ACCEPT THE STATUTORY METHOD OF COMPENSATION, BUT RELIES ON THE OLD LAW, WHAT DEFENSES UNDER THE OLD LAW SHALL BE ABROGATED?
> What about abrogating the defense of
> 1. Assumption of risk by employees.
> 2. Injury caused by fellow servant.
> 3. Injury caused by contributory negligence.

Abrogate each of the defenses you have named, when the employer elects to operate under the common law. Make the compensation both certain and reasonable, if the employer stays in under the compensation law. Make it better for both employer and employee to operate under the compensation law. Don't leave the matter so it will be best for either to take his chances under the common law. Make your **new law** WORKABLE. In New Jersey ninety per cent. of the employers and employees are operating under the Workmen's Compensation Law. In California and Wisconsin more employers and employees are operating under the common law than under the compensation law.

In California and Wisconsin liability insurance companies charge more for coverage under the compensation law than under the common law, whereas in New Jersey they charge a shade more for coverage under the common law than under the compensation law. The New Jersey way helps mightily to keep the employers under the compensation law.

I quote from your circular:

> 6. SHALL ANY SUITS FOR DAMAGES BE PERMITTED IN LIEU OF THE STATUTORY COMPENSATION AS DEPENDENT UPON EITHER
> 1. The gross personal negligence of the employer, or
> 2. The failure to comply with safety laws?

Digitized by Google

To Hon. Harvey E. Garman

No. You are framing a law one great purpose of which is to AVOID **litigation.** To permit the employer to be mulcted in damages under the circumstances which you recite,

DIRECTLY
ENCOURAGES
LITIGATION.

Make your law definite and certain—**swift and sure.**
I quote from your circular:

7. WHAT, IF ANY, SPECIAL CONTRACTS BETWEEN EMPLOYER AND EMPLOYEE MAY BE MADE CONCERNING LIABILITY EITHER
   1. Waiving compensation;
   2. Reducing liability;
   3. Establishing a benefit fund;
   4. Providing for insurance?

Do not permit the compensation to be waived or reduced. Do not pass a law for the benefit of workmen and their dependents and then permit the workmen to sign away their rights and the rights of their dependents.

Respecting insurance, kindly read the enclosed copy of a letter I wrote to the Secretary of the Pennsylvania Industrial Accident Commission on April 1st. (See Letter No. 9, *ante*, p. 105.)

I quote from your circular:

8. HOW LONG MUST DISABILITY CONTINUE, BEFORE A RIGHT TO COMPENSATE ATTACHES, AND FROM WHAT DATE SHALL COMPENSATION COMMENCE?

Kindly read extract from a letter I wrote to Commissioner

Digitized by Google

of Insurance Palmer, of Michigan, on March 25, 1912, which extract is attached hereto. (See Letter No. 11, p. 124.)

I quote from your circular:

> 9. WITHIN WHAT TIME, AND IN WHAT MANNER SHALL NOTICE OF INJURY BE GIVEN, AND WITHIN WHAT TIME SHALL CLAIM BE PRESENTED FOR SETTLEMENT?

Kindly read the extract from a bill presented to the New York Legislature this year, which extract is attached hereto. (See p. 120.) (The New York Legislature adjourned without passing any workmen's compensation measure).

I quote from your circular:

> 10. IN THE EVENT OF DISPUTES, TO WHOM SHALL THEY BE REFERRED FOR SETTLEMENT?
> SHALL it be,
> 1. To a Board or Commission;
> 2. To Arbitrators;
> 3. To a Judge;
> 4. To a Court;
> 5. To a designated State officer?

[Since this letter was written, I have seen the extremely satisfactory results achieved by the Massachusetts Industrial Accident Board and by the New Jersey Courts—one a political body and the other a judicial body.

I have also seen the most unsatisfactory results flowing from administration by *purely* political boards in other States.

In the light of this additional experience I am free to admit that the *name* of the body which administers the law is of little consequence so long as the character of that body can

Digitized by Google

approximate in excellence that of the Massachusetts Industrial Accident Board or the Courts of New Jersey.]

I quote from your circular:

11. IF THE BENEFICIARIES OF A DECEASED WORKMAN ARE NON-RESIDENT ALIENS, WHAT COMPENSATION SHALL BE PAID AND TO WHOM?
    1. To a widow;
    2. To children;
    3. To parents?

(See Letter No. 12 to Mr. Francis Feehan, *post*, p. 133).

* * * * * * *

I quote from your circular:

12. WHAT SHALL BE THE COMPENSATION PAID TO DEPENDENTS IN CASE OF DEATH?
    Shall it be upon the basis of earnings, either for a stated number of years, or a percentage of earnings for a given period in weeks, months, or years?
    What shall be the maximum amount paid?
    What shall be the minimum amount paid?
    Shall it be in a single payment, or in weekly, monthly or annual amounts?
    What, if anything, shall be paid in the event of no dependents, for burial or other expenses?
13. WHAT SHALL BE THE COMPENSATION IN CASE OF TOTAL DISABILITY?
    Shall it be by a single payment, or by installments?
    What per cent. of earnings shall be paid?
    What shall be the maximum?
    What shall be the minimum?
    What distinction, if any, shall be made between married and single men?
14. WHAT SHALL BE THE COMPENSATION IN CASE OF PARTIAL DISABILITY?

Digitized by Google

Shall it be by a single payment, or by installments?
What per cent. of earnings shall be paid?
What shall be the maximum?
What shall be the minimum?
What distinction, if any, shall be made between married and single men?
Shall payment be made for specific injuries, like loss of limb or eye?
If payable at stated times, shall the amount be subject to revision?

I like the scale of compensation in the New Jersey law (copy enclosed herewith) and in the Phillips New York Bill (Int. 1484) enclosed herewith. There are some trifling inaccuracies in the wording in each case to which I shall be glad to call your attention if you should decide to adopt a similar scale of compensation.

I am cordially in favor of paying the compensation by monthly installments for I believe that always paying the compensation in a lump sum will go a long ways toward defeating that which you are trying to accomplish—keeping injured employees and their dependents above the poverty line. However, there certainly are cases where the object intended to be accomplished by a workmen's compensation law can best be served by commuting the compensation. In your own state, recently, the du Pont Powder Company decided to pay to the widow of an employee who had met with accidental death while in the employ of that corporation, $2,500 in monthly installments. The widow explained that she had five children, the oldest a boy of ten, that she knew of a small farm that she could buy for $1,500, that she already possessed a cow, and that if given enough money down to buy the farm, a horse, some chickens, and some farming implements, she could make a living on the farm by setting her children to work thereon; whereupon the du Pont Powder Company paid the woman enough in a lump sum to accom-

Digitized by Google

plish her purpose agreeing to pay her the balance in small monthly installments extending over a long period of time.

I suggest that in cases where there are no dependents, the employer should be made liable for reasonable last sickness and burial expenses not exceeding $100.

I quote from your circular:

> 15. COMPULSORY INSURANCE.
> If a plan of compulsory insurance, through State agencies, be deemed desirable, what shall the plan be?

I attach herewith a copy of a letter written by me, on this phase of the subject, to the Secretary of the Pennsylvania Industrial Accidents Commission on April 1st, 1912. (The subject is more fully covered in Letter No. 2, p. 20, to Hon. John T. Clarkson.)

I feel sure that you will not think I am "butting in" by writing you this long letter. Your correspondence with me leads me to believe that you will be glad to receive my views, even if you do not agree with my conclusions.

Cordially and sincerely yours,

Enclosures. EDSON S. LOTT,
President.

EXTRACT FROM THE PHILLIPS ASSEMBLY BILL, STATE OF NEW YORK, NO. 1780—INT. 1484

"Notice to employer. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the employee or some one on his behalf, or some of the dependents, or some one on their behalf, shall give notice thereof to the employer within fourteen days of the occurrence of the injury, then no compensation shall be due until such notice is given or knowledge obtained. If the notice is given or the knowledge obtained within thirty days after the occurrence of the injury, no want, failure, or inaccuracy of the notice shall be a bar to obtaining compensation, unless

Digitized by Google

the employer shall show that he was prejudiced by such want, defect or inaccuracy, and then only to the extent of such prejudice. If the notice is given or the notice obtained within ninety days, and if the employee, or other beneficiary, shall show that his failure to give prior notice was due to his mistake, inadvertence, ignorance of fact or law, or inability, or to fraud, misrepresentation or deceit of another person, or to any other reasonable cause or excuse, then compensation may be allowed, unless, and then to the extent only, that the employer shall show that he was prejudiced by failure to receive such notice. Unless knowledge be obtained, or notice given, within ninety days after the occurrence of the injury, no compensation shall be allowed or paid.

"Service and form of notice. The notice referred to may be served personally upon the employer, or upon any agent of the employer upon whom a summons may be served in a civil action, or by sending it through the mail to the employer at the last known residence or business place thereof within the state, and shall be substantially in the following form:

"Form of notice,

"To (name of employer):

"You are hereby notified that a personal injury was received by (name of employee injured), who was in your employ at (place) while engaged as (nature of employment), on or about the ( ) day of ( ), nineteen hundred and ( ), and that compensation will be claimed therefor. Signed.

( ).

but no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employee, by name, received an injury in the course of his employment on or about a specified time, at or near a certain place. Notice served at the office of, or on the person who was the employee's immediate superior, shall be a compliance with this act."

Digitized by Google

LETTER NO. 11

Review of Michigan Workmen's Compensation Act. Necessity for Record Proof of Declarations of Employees Not to Be Bound by the Act

To Hon. C. A. Palmer, Commissioner of Insurance of Michigan.

New York, March 25, 1912.

My dear Mr. Palmer:

I beg to acknowledge the receipt of and to cordially thank you for your letter of March 19, re House Bill No. 1, File No. 1, introduced by Mr. Ashley—a Workmen's Compensation Bill.

You are so good as to say that you would like to have me review the bill and give you the benefit of my judgment upon it, as compared with similar statutes in other States.

I quote from the bill as follows:

> "Sec. 2. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by household domestic servants and farm laborers."

Except that farmers have votes and all those employing domestic servants have votes, I see no justification for leaving out household domestic servants and farm laborers. My own judgment is that a workmen's compensation bill should include all industries. Why not? If you include the one or two or three or more barbers who are working for a boss barber, why should you not include the one or two or three or more farm hands who are working for a boss farmer? And why should you decide that a household domestic servant who receives an accidental bodily injury must shift for himself, while you take care of a stable man, working in a livery stable, who receives an accidental bodily injury? The only answer I know is "Votes."

Digitized by Google

I quote from the bill as follows:

> "Sec. 8. Any employee as defined in subdivision one of the preceding section shall be subject to the provisions of this act and of any act amendatory thereof. Any employee as defined in subdivision two of the preceding section shall be deemed to have accepted and shall be subject to the provisions of this act and of any act amendatory thereof if, at the time of the accident upon which liability is claimed:
>
> "1. The employer charged with such liability is subject to the provisions of this act, whether the employee has actual notice thereof or not; and
>
> "2. Such employee shall not, at the time of entering into his contract of hire, express or implied, with such employer, have given to his employer notice in writing that he elects not to be subject to the provisions of this act; or, in the event that such contract of hire was made before such employer became subject to the provisions of this act, such employee shall have given to his employer notice in writing that he elects not to be subject to such provisions, or without giving either of such notices shall have remained in the service of such employer for thirty days after the employer has filed with said board an election to be subject to the terms of this act. An employee who has given notice to his employer in writing as aforesaid that he elects not to be subject to the provisions of this act, may waive such claim by a notice in writing, which shall take effect five days after it is delivered to the employer or his agent."

The part of your bill last quoted is defective. In the interest of employer and employee I suggest that your bill ought to make more definite and certain that part which provides how an employee may elect not to be bound by the provisions of the bill. To simply "**have given to his employer notice in writing**" or "**may waive such claim by a notice in writing**" (Notice to whom?) is not sufficient. It has the very great advantage of extreme simplicity, but its

Digitized by Google

very simplicity will often give rise to litigation. More adequate provision should be inserted in the bill to **perpetuate** the **evidence** of the "notice." As a lawyer I know that you will agree with me. You want to **prevent,** not **encourage,** litigation. Claims will be set up and denied that **notice has been given** and that **notice has not been given.** You defeat one object of your bill (the avoidance of litigation) by putting in such a loose provision.

I quote from the bill as follows:

> "Sec. 3. No compensation shall be paid under this act for any injury which does not incapacitate the employee for a period of at least one week from earning full wages, but if incapacity extends beyond the period of one week, compensation shall begin on the eighth day after injury: Provided, however, That if such disability continues for eight weeks or longer, such compensation shall be computed from the date of the injury."

The words "one week" should be made to read **two weeks.** I have discussed this question with a large number of gentlemen who have given workmen's compensation laws in this country and in other countries intelligent study, and not one of them has seriously considered a waiting period of one week as against two weeks. Many of all those with whom I have talked think the period should be one month. Some even think that the waiting period should be two months. By eliminating the smaller misfortunes, you leave your fund for the use of alleviating real distress—permanent injuries and the like, instead of dissipating it for comparative inconsequential injuries. To be laid up for a month is a misfortune, but not a real calamity. If the fund is eaten up for misfortunes there is nothing left for calamities.

I quote from the bill as follows:

> "Sec. 4. During the first three weeks after the injury the employer shall furnish, or cause to be

Digitized by Google

furnished, reasonable medical and hospital services and medicines when they are needed."

* * * * * * *

Under an employers' liability policy of insurance, such as has been in vogue in this country for years, the so-called "first aid" feature reads as follows:

> "The Assured, whenever requested by the (insurance) Company, shall aid in securing information and evidence and the attendance of witnesses and in effecting settlements and in prosecuting appeals, but the Assured shall not voluntarily assume any liability, either before or after an accident, nor shall he (without the written consent of the Company previously given) incur any expense or settle any claim, **except at his own cost,** nor interfere in any negotiations for settlement or in any legal proceeding conducted by the Company on account of any claim; except that the Assured may provide **at the time of the accident** (and at the cost of the Company) such **immediate** surgical **relief** as is **imperative."**

This feature of such policies costs insurance companies from ten to twenty per cent. of the total losses paid, worded as carefully and restricted as closely as is the clause quoted. A large amount of your fund will be paid to doctors. There will be no escape from it. You may theorize as much as you like, but the stubborn facts will prove, in time, that I am telling you the exact truth. Even if you should put on a limit of, say $100, as New Jersey does, and cut the time to two weeks, you would find that the amount the employer will be called upon to pay in a great majority of cases will be $100—or just a few dollars less. I am talking by the book, and I have the book with me. I know that the workmen do not share my views, but they are taking money out of their own pockets by insisting upon this feature of the bill.

Digitized by Google

The Wisconsin law reads as follows:

> "Section 2394–9. Where liability for compensation under the act exists, the same shall be as provided in the following schedule:
>
> "1. Such medical and surgical treatment, medicines, medical and surgical supplies, crutches, and apparatus, as may be reasonably required at the time of the injury and thereafter during the disability, but not exceeding ninety days, to cure and relieve from the effects of the injury, the same to be provided by the employer; and in case of his neglect or refusal reasonably to do so the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same."

The Wisconsin law has been in effect since September 1, 1911. Former Insurance Commissioner Fricke, of Wisconsin, organized the Wisconsin Mutual Employers' Liability Insurance Association, for the purpose of insuring Wisconsin employers under the Wisconsin law. The association has been doing business since the very day the law went into effect. It is doing quite a large business. Dr. Fricke writes me that, in his judgment, the medical feature of the law will always cost more to employers than all other features of the law. In France, where the workmen's compensation law covers medical attention, the law is known as the "Doctors' Graft Law." Hon. P. Tecumseh Sherman, former Commissioner of Labor of this State, who has probably given more intelligent study the world over to workmen's compensation laws than any other man in this country, agrees with the views I have expressed herein. Dr. Friedensburg, formerly of the Imperial Insurance Senate of Germany, agrees with the views I have expressed herein. My own judgment is that the insurance rates intelligent underwriters will be obliged to charge for insurance under your bill will be increased say twenty per cent. by reason of your wide open medical attention feature. I note the following words in the

Digitized by Google

bill: "The fees and the payment thereof of all attorneys and physicians for services under this act shall be subject to the approval of the industrial accident board," but I warn you that this provision will not accomplish your purpose in its entirety. It will only serve as a very soft brake. The industrial accident board may prevent the payment of some outrageous bill of large dimensions, but it will not prevent the constant drip, drip, drip.

* * * * * * *

I quote from the bill as follows:

> "Sec. 15. No proceedings for compensation for an injury under this act shall be maintained unless a notice of the injury shall have been given to the employer as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within three months after the occurrence of the same; or, in case of the death of the employee, or in the event of his physical or mental incapacity, within three months after death or the removal of such physical or mental incapacity.
>
> "Sec. 16. The said notice shall be in writing and shall state in ordinary language the time, place and cause of the injury; and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his dependents or by a person in their behalf.
>
> "Sec. 17. The notice shall be served upon the employer or an agent thereof. Such service may be made by delivering said notice to the person on whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served, at his last known residence or place of business.
>
> "Sec. 18. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, unless it is shown that it was

Digitized by Google

> the intention to mislead, and the employer, or the insurance company carrying such risk or the commissioner of insurance as the case may be, was in fact misled thereby. Want of notice shall not be a bar to proceedings under this act, if it be shown that the employer had knowledge of the injury."

Three months is entirely too much time to give the injured employee in which to file notice of an accident or injury, and this provision of your law will cause an economic waste in defending fraudulent claims.

I respectfully suggest that you substitute the following notice provision: (See notice from Phillips Bill, printed *ante*, p. 120.)

* * * * * * *

I quote from the bill as follows:

> "Sec. 18. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing to the industrial accident board on blanks to be procured from the board for that purpose. The said reports shall contain the name and nature of the business of the employer, the location of his establishment or place of work, the name, age, sex and occupation of the injured employee, and shall state the time, the nature and cause of the injury, and such other information as may be required by the board. Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty dollars for each offense."

These reports should go to the Department of Labor, in my opinion. One splendid result of all this workmen's compensation agitation will be the prevention of accidents. The prevention OF accidents is of vastly greater value to everybody than compensation FOR accidents. In many States

Digitized by Google

there is now a movement on foot to enact more stringent accident prevention laws and to give Departments of Labor more help and greater authority. I enclose herewith a copy of a paper bearing on this general subject which I read at Chicago last fall. Your own Department of Labor ought to formulate the blanks for these reports, it ought to be the greatest factor in determining what changes should be made in your factory laws for the safety of employees, and it ought to be placed in a position to co-operate with the Departments of Labor of other States in this worthy movement toward the prevention of accidents. And while you are about it, **give your Department of Labor more money with which to make its work** more effective.

I quote from the bill as follows:

> "First. Upon furnishing satisfactory proof to said board of his solvency and financial ability to pay the compensation and benefits hereinbefore provided for, to make such payments directly to his employees, as they may become entitled to receive the same under the terms and conditions of this act;"

Of course there can be no objection to the words quoted, if the industrial accident board can stand the strain, but you will not play much golf next summer if the bill is enacted into law.

I quote from the bill as follows:

> "Sec. 2. Nothing herein shall affect any existing contract for employers' liability insurance or affect the organization of any mutual or other insurance company, or any arrangement now existing between employers and employees, providing for the payment to such employees, their families, dependents or representatives, sick, accident or death benefits, in addition to the compensation provided for by this act. But liability for compensation under this act shall not be reduced or affected by any insurance, contribution or other benefit whatsoever,

Digitized by Google

due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer; and in addition thereto, the right to enforce in his own name, in the manner provided in this act, the liability of any insurance company or of any employers' association organized under the provisions of part five thereof, or the commissioner of insurance, who may, in whole or in part, have insured the liability for such compensation: Provided, however, That payment in whole or in part of such compensation by either the employer, or the insurance company carrying such risk or the commissioner of insurance, as the case may be, shall to the extent thereof be a bar to recovery against the other, of the amount so paid."

You've gone about this "wrong end to." It is quite all right, from my viewpoint, to make the insurance company guarantee the solvency of its assured, but all wrong to coax the injured employees of the assured to sue the insurance company in the first instance. What you want to accomplish, I take it, is to make sure that the injured employee will get any compensation due him, **even if a judgment against his employer is returned unsatisfied.** WHY NOT SAY SO, and avoid **the complications which will arise under your wording?** I enclose herewith the amended corresponding section of the New York bill drawn by the Hotchkiss Committee.

I quote from the bill as follows:

"Fourth. The period for which the company is incorporated, which shall not exceed thirty years."

What happens to the injured employees whose compensation are pending at the end of the thirty years?

I quote from the bill as follows:

"Sec. 8. The company shall in its by-laws and policies fix the contingent mutual liability of its

Digitized by Google

> members for the payment of losses and expenses not provided for by its cash funds. Such contingent liability of a member shall not be less than an amount equal to the liability imposed by this act."

Would you like to undertake to explain what the last quotation means?

I quote from the bill as follows:

> "Sec. 10. The board of directors may, from time to time, by vote, fix and determine the amount to be paid as a dividend upon policies expiring during each year after retaining sufficient sums to pay all the compensation which may be payable on account of injuries sustained and expenses incurred."

Who will determine what are "sufficient sums to pay all the compensation which may be payable on account of injuries sustained and expenses incurred"? Will the industrial accident board be competent to determine? (Not the slightest disrespect intended.)

I realize, my dear Mr. Palmer, that I have not compared your bill with similar statutes of other States, as you requested me to do, yet I think the same purpose may be served by the criticisms which I have ventured to make.

Having taken the liberty of freely criticising your bill, I desire to add that I think it is, as a whole, a very good one.

* * * * * * *

Most truly yours,
EDSON S. LOTT,
President.

HOTCHKISS COMMITTEE CLAUSE

In case an employer shall carry insurance against liability under this article and an execution upon a judgment for

Digitized by Google

compensation against such employer is returned unsatisfied, such judgment-employee, or the representative of such employee, may enforce such judgment for compensation against the insurer of such employer to the same extent that the employer could have enforced his claim against such insurer had he paid such compensation (or judgment).

Digitized by Google

LETTER NO. 12

Should Non-Resident Alien Dependents be Awarded Compensation?

To Francis Feehan, of the Miners' Union of Pittsburgh, Pa.

New York, April 27, 1912.

Dear Mr. Feehan:

On April 5 I wrote a long letter to the Secretary of the Colorado Employees' Compensation Commission, on the general subject of workmen's compensation for accidents, and in the course of that letter I said:

> "Pay no compensation to non-resident alien dependents. Why should you? We open our gates to practically all comers. Some come for life and become a part of us. Others stay only long enough to save up a little money and then take it back to their mother country where it will go much further. While we are offering them, often to our own disadvantage, every opportunity to come with us and become a part of us, should we also guarantee, in the event of their accidental death, to continue to care for those they have left behind in other countries and to whom they have been sending a part of the money they earned here? Is it not enough for us to make it worth their while to come here and enlarge the stream of gold continually flowing from this country to all foreign countries? I say that we permit workmen to come to this country to our own disadvantage in some cases, because we all know that a certain percentage of the immigrants to this country are undesirable citizens and always remain so. Workmen's compensation laws will prove sufficiently burdensome to our industries if we confine

Digitized by Google

the compensation to our own people, and permit other countries to take care of their own dependents."

At the hearing given by your Commission in Philadelphia on Tuesday I said something like that which I have just quoted.

You asked me whether I did not think, in the event that non-resident alien dependents were denied compensation, that employers would discriminate against American workmen.

Another witness said that he thought non-resident alien dependents should be paid compensation, but that they should receive only one-half as much as those living in this country, for the reason that money has double the purchasing power in other countries.

Another witness said that non-resident alien dependents should receive as much as those living here, for the reason that compensation is based on the earning power of the deceased workman when he was alive, and that in some South American countries money has a lesser purchasing power than it has in this country.

I think all will agree that each of the arguments has merit. I am not as sure of my ground as respects this particular question as I am concerning other phases of workmen's compensation laws. However, I would like to advance another thought in support of my contention.

THEORETICALLY, I think that employers' liability laws are based on justice. That is, when an employer has taken every precaution for the safety of his workmen which can be expected from an intelligent, careful and humane employer, and then one of his workmen is accidentally injured through his own carelessness, absolutely without fault or negligence on the part of the employer, that the employer should not be compelled to pay for the results of the accident.

Digitized by Google

But I know that AS A PRACTICAL PROPOSITION laws which permit employers to escape all liability for the results of accidents to workmen, except in those cases where the accidents are caused through the fault or negligence of the employer, **work untold hardships and misery upon workmen and their dependents.**

Therefore, I am in favor of reasonable workmen's compensation laws.

And if I feel, at times, that there is something in the argument that 'tis difficult to justify a law which takes property from an employer and gives it to an employee who has met with an accidental bodily injury, when the accident was not caused, either directly or indirectly, by any act of the employer, I can come back to the comforting thought that in most all cases the burden to the employer can be passed along to and be distributed among the employer's customers—the public.

The public must and should take care of those who cannot take care of themselves.

But should the public of this country take care of those of other countries who cannot take care of themselves?

I am not sure of my own logic. I should really like to know how you feel about it.

Moreover, you raise a new economic question when you ask whether American workmen would be discriminated against in their employment in the event that workmen's compensation laws do not provide compensation for non-resident alien dependents of workmen killed by accident, and I shall be very greatly indebted to you if you will be so good as to give me in detail your own views concerning your question.

I am taking the liberty of sending a copy of this letter to each member of your Commission, with the request that he give me his views.

Digitized by Google

To Francis Feehan

I am of the opinion that we cannot well have too much discussion of the entire question of workmen's compensation.

I believe it to be one of the most far-reaching questions of the day.

Most truly yours,

EDSON S. LOTT,

President.

Digitized by Google

INDEX

PAGE

Accidents; number of persons killed and injured in coal mines 3
—— Pennsylvania coal mines 4
Accident prevention; absence of sanitary precautions . . . 6
—— Alabama; absence of statistics. 10
—— Arizona; amount expended 9
—— Arizona; explanation of expenditures for 10
—— Arkansas; amount expended 9
—— California; amount expended 9
—— causes of failure to enforce prevention statutes. . 6
—— Colorado; amount expended 9
—— Colorado; explanation of expenditures for. 11
—— commendation by C. W. Peck of Fidelity & Casualty Company's publication . . . 67
—— commendation by H. B. Smith of Fidelity & Casualty Company's publication. 67
—— commendation by Pennsylvania Railroad Co. of Fidelity & Casualty Company's publication 67
—— commendation of Fidelity & Casualty Company's publication by Northwestern Tile and Clay Products Company. 67
—— Connecticut; amount expended 9
—— Connecticut; explanation of expenditures for. . . 11
—— dangerous machinery inadequately guarded 5
—— Delaware; absence of statistics. 10
—— difficulty of as against intemperate employees. . . . iii
—— difficulty of enforcing laws. 3
—— effective incentive; difference as to between stock companies and mutual associations. 103
—— effective work done by stock insurance companies 57
—— effect on insurance rates iv
—— employers' attitude in respect to. 68, 69
—— English experience; remarks of Massachusetts Employees' Insurance Association and reply thereto 81
—— Florida; amount expended 9
—— Georgia; amount expended 9
—— German system; re-

Digitized by Google

PAGE

marks by Massachusetts Employees' Insurance Association and reply thereto 80
—— Idaho; absence of statistics 10
—— Illinois; amount expended 9
—— importance of..... iii
—— importance of as against compensation for injuries.. 1
—— Indiana; amount expended 9
—— Iowa; amount expended 9
—— Kansas; amount expended 9
—— Kentucky; amount expended for..... 9
—— Kentucky; explanation of expenditures for..... 10
—— lectures by David Van Schaack 67
—— liability insurance companies; work done by..... iii
—— literature of American liability insurance companies in use in Europe....88, 89
—— Louisiana; amount expended 9
—— Louisiana; small amount expended for 4
—— Maine; amount expended 9
—— Maine; explanation of expenditures for 11
—— Maryland; amount expended 9
—— Massachusetts; amount expended 9
—— Michigan; amount expended 9
—— Michigan; explanation of expenditures for..... 10

PAGE

—— Michigan; power of Department of Labor..... 129
—— Minnesota; amount expended 9
—— Minnesota; explanation of expenditures for..... 10
—— Mississippi; absence of statistics..... 10
—— Missouri; amount expended 9
—— Missouri; source of profit to State 10
—— Montana; amount expended 9
—— more liberal appropriations therefor in some States; workmen's compensation; agitation throughout the country for such laws..... 7
—— Nebraska; amount expended 9
—— Nebraska; small amount expended for 4
—— Nevada; absence of statistics 10
—— New Hampshire; amount expended 9
—— New Hampshire; explanation of expenditures for..... 11
—— New Jersey; amount expended 9
—— New Jersey; explanation of expenditures for... 11
—— New Mexico; amount expended 9
—— New York; amount expended 9
—— New York; explanation of expenditures for..... 11
—— North Carolina; amount expended 9

Digitized by Google

PAGE

—— North Dakota; no system of inspection 10
—— Ohio; amount expended 9
—— Oklahoma; amount expended 9
—— Oregon; amount expended 9
—— Pennsylvania; amount expended 9
—— prevention of accidents better than compensation for accidents 66
—— "Prevention of Industrial Accidents"; publication by Fidelity & Casualty Company..... 67
—— progress being made... 7
—— relative effect of German and English systems 87, 88, 89
—— Rhode Island; amount expended 9
—— safety devices; inaccurate statement by Massachusetts Employees' Insurance Association as to efforts of liability insurance companies 65
—— Scientific American; commendation of Fidelity & Casualty Company's publication..... 67
—— small appropriations from State Legislatures... 69
—— small sums expended for in comparison with amount paid for prevention of accidents to animals..... 3
—— South Carolina; amount expended 9
—— South Dakota; absence of statistics 10
—— State insurance; effect on iii

PAGE

—— statistics from various labor departments..... 4–5
—— table showing amount expended by various States in this work with explanatory notes 9, 10, 11
—— Tennessee; amount expended 9
—— Tennessee; explanation of expenditures for 10
—— Texas; amount expended 9
—— Utah; amount expended 9
—— Vermont; amount expended 9
—— Virginia; amount expended 9
—— Virginia; explanation of expenditures for 11
—— Washington; not paid for by State..... 10
—— West Virginia; amount expended 9
—— Wisconsin; amount expended 9
—— Wyoming; absence of statistics..... 10
"Accident, Prevention and Relief"; extract from as to accident prevention in Germany 80
—— quotation from as to accident prevention in Germany and England.....87, 88
—— quotation from relating to German system 91
Adjustments; abuses relating to; remarks by Massachusetts Employees' Insurance Association and reply thereto 84, 85
Aetna Life Insurance Com-

PAGE

pany; accident prevention; important publications of concerning..... 66
Agents' commissions; State insurance 32
Alabama; accident prevention; absence of statistics.. 10
Aliens; compensation to when non-residents..... 133
Arizona; accident prevention; amount expended for..... 9
—— accident prevention; explanation of expenditures for..... 10
Arkansas; accident prevention; amount expended for 9
Average; law of and risk distribution as taking care of catastrophe hazard..... 21

Baldwin, E. Spencer (Secretary of the Massachusetts Employees' Insurance Association); letter to..... 97
Belgium; competition between State organized mutual associations and private insurance companies. 73
—— editorial from Market World and Chronicle in relation to insurance plan... 73
Bennett, Frank P., Jr.; letter to; on percentage of payments by employers which reach injured employees.. 37
Bohlen, Francis H. (Secretary of Industrial Accident Commission of Pennsylvania); letter to 105
—— extract from article by, in Harvard Law Review .. 78
—— letter to, on the reason why premiums for workmen's compensation insurance are higher than for employers' liability insurance 52
Botterill, Samuel; letter to on basis of premium rates for workmen's compensation insurance 44
—— letter to, on basis of premium rates for workmen's compensation insurance; second letter..... 50
British Workmen's Compensation Act; litigation under; remarks by Massachusetts Employees' Insurance Association and reply thereto 78
—— litigation under; remarks by P. Tecumseh Sherman..... 78

California; accident prevention; amount expended for 9
—— workmen's compensation insurance; premium rates 52
Catastrophe; hazard of; how met by stock companies and mutual associations 100, 101
—— hazard of; Iowa State insurance plan..... 22
—— hazard of; law of average and risk distribution.. 21
—— hazard of under State insurance plan..... 21
Census; value of products in United States and amount added by labor of workmen 5
—— wage earners; number of engaged in manufactures.. 10
Clarkson, John T., letter to; on prevention of monopoly

Digitized by Google

PAGE

in workmen's compensation insurance by permitting free competition 20
—— letter to on State insurance and its weaknesses; misunderstanding as to the German plan in its application to America especially to the schemes adopted in Washington and Ohio..... 12
Coal mines; accidents in Pennsylvania..... 4
—— number of persons killed and injured in..... 3
Colorado; accident prevention; amount expended for. 9
—— accident prevention; explanation of expenditures for..... 11
Commissions; rates of; workmen's compensation insurance..... 75
—— remarks concerning, by Massachusetts Employees' Insurance Association.... 74
Competition; basis of; satisfaction of assured.....76, 77
Compulsory insurance..... 120
Connecticut; accident prevention; amount expended for 9
—— accident prevention; explanation of expenditures for..... 11

Delaware; accident prevention; absence of statistics.. 10
Domestic servants; Michigan Act; letter to C. A. Palmer 122

Employers' liability acts; abuses under and responsibility therefor....84, 85
—— abuses due to employers' liability laws unjustly charged to insurance companies..... iv
—— abuses due to law not to operations of insurance companies..... 38
—— defense of actions under; difficulty of..... 39
—— one employee out of eight receives damages... 39
—— percentage of payments which reaches injured employees; letter to Frank P. Bennett, Jr..... 37
Employers' liability; insurance; rates; reasons why premiums for workmen's compensation insurance are higher than for employers' liability insurance; letter to Francis H. Bohlen..... 52
England; refusal to adopt plans of Norway or Germany..... 18
—— workmen's compensation insurance; cost of.. 59–64
English compensation act; comparison with Federal Commission bill..... 18
Expenses; agents' commissions; State insurance..... 32
—— workmen's compensation insurance; cost in England..... 59–64

Factory inspection; inefficiency of and its causes; address before annual convention of International Association of Factory Inspectors..... 1
—— see ACCIDENT PREVENTION.

Digitized by Google

PAGE

Farm laborers; Michigan act; letter to C. A. Palmer. 122
—— letter to Harvey E. Garman, concerning. 111
Federal Commission Bill; comparison with English compensation act 18
Feehan, Francis; letter to on question of whether or not non-resident alien dependents should be awarded compensation 133
Fidelity & Casualty Co.; accident prevention; publication by. 67
—— commendation of from various sources on prevention of industrial accidents 67
Florida; accident prevention; amount expended for. 9
Frickie, Dr. (former Insurance Commissioner of Wisconsin); remarks as to cost of medical attention under Wisconsin law. 82

Garman, Harvey E. (Secretary Employees' Compensation Commission of Colorado); letter to, on "To Whom shall Workmen's Compensation Laws apply? With a general discussion of the Scope of such Statutes" 111
Georgia; accident prevention; amount expended for 9
Germany; accident prevention 80
—— compensation law not adapted to America; remarks by H. E. Wills. . . . 90, 91

PAGE

—— controversy between employers and employees. . . . 65
—— politics in relation to German system. 93
—— private insurance systems; remarks by Prof. Alfred Manes 95
—— workmen's compensation insurance; deferred assessments. 12
—— workmen's compensation insurance; misunderstanding as to German plan in its application to America, and especially as to the schemes adopted in Washington and Ohio 12
Great Britain; controversy between employers and employees. 65
—— loss ratio under workmen's compensation act. . 59–63
—— see ENGLAND; LIABILITY INSURANCE COMPANIES; WORKMEN'S COMPENSATION INSURANCE.

Harvard Law Review; extract from article by Francis H. Bohlen. 78
Hastings, Hugh; extract from article in North American Review. 89
Hotchkiss Committee; clause of as to liability of insurance companies. 131

Idaho; accident prevention; absence of statistics. 10
Illinois; accident prevention; amount expended for. 9
Indiana; accident prevention; amount expended for 9

PAGE

International Association of Factory Inspectors; address before annual convention on inefficient factory inspection and its causes..... 1
Introduction..... iii
Iowa; accident prevention; amount expended for 9
—— objections to State insurance plan for..... 22
—— State insurance; expenses; agents' commissions 32
—— workmen's compensation insurance; recommendation of three plans..... 28
Italy; State insurance; remarks by Massachusetts Employees' Insurance Association..... 70

Kansas; accident prevention; amount expended for..... 9
Kentucky; accident prevention; amount expended for 9
—— accident prevention; explanation of expenditures for..... 10

Labor Departments; statistics as to accident prevention.. 4–5
Liability insurance companies; accident prevention; effective work done by.... 66
—— accident prevention; inaccurate statement as to efforts of..... 65
—— alleged unsatisfactory service of; remarks by Massachusetts Employees' Insurance Association..... 75
—— economy; self-interest.. 34
—— employers' liability law; insure legal liability only but frequently pay more than they agreed to pay.. 40
—— excessive rates; remedy for..... 35
—— impersonal handling of controversy between employer and employee..... 39
—— impossibility of assuming greater liability than law requires..... v
—— manner of taking care of catastrophe hazard by law of average and risk distribution..... 21
—— percentage of payments regulated by law under which they operated..... 38
—— policy covers entire liability of employer. 33
—— profits greater where loss ratio and premium are low.. iv
—— protection according to risk assumed and premiums received..... iv
—— relative merits of liberal settlements or resisting claims..... 41
—— starting new company.. 36
—— statistics; publication of 46,50
—— subject to provisions of workmen's compensation act; Michigan..... 129
—— supervision of 34
—— unjust criticisms of abuse due to vicious laws.. iv
See WORKMEN'S COMPENSATION INSURANCE.
Litigation; avoidance of, by proper notice of election by employee..... 124
—— status of, under English Compensation Act; remarks by Massachusetts

Digitized by Google

PAGE

Employees' Association and reply thereto..... 78
Loss ratio; British liability insurance companies....59–63
See WORKMEN'S COMPENSATION INSURANCE.
Louisiana; accident prevention; amount expended for 9
—— accident prevention; small amount expended for 4

Maine; accident prevention; amount expended for..... 9
—— accident prevention; explanation of expenditures for..... 11
Manes, Prof. Alfred; remarks of concerning private insurance systems of Germany..... 95
Market World and Chronicle; editorial from, in relation to Belgium. 73
Maryland; accident prevention; amount expended for..... 9
Massachusetts; accident prevention; amount expended for..... 9
Massachusetts Employees' Insurance Association; comparison between service of and that furnished by stock companies; letter to E. Spencer Baldwin..... 97
—— coverage of under policy issued by..... 83
—— letter to, on the advantages of a stock liability company over a mutual liability insurance association, and effective work done by stock insurance companies in preventing accidents..... 57
Medical attention; cost of; Wisconsin Workmen's Compensation Act..... 82
—— Michigan act..... 124
—— Wisconsin law; expense under..... 126
Michigan; accident prevention; amount expended for 9
—— accident prevention; explanation of expenditures for..... 10
—— workmen's compensation act; general remarks as to; letter to Francis H. Bohlen..... 105
—— workmen's compensation act; mutual insurance associations; insufficient reserves..... 105
—— workmen's compensation act; notice of injury.. 127
Minnesota; accident prevention; amount expended for. 9
—— accident prevention; explanation of expenditures for..... 10
Mississippi; accident prevention; absence of statistics.. 10
Missouri; accident prevention; amount expended for 9
—— accident prevention; source of profit to State... 10
Monopoly; reply to E. Spencer Baldwin as to monopoly by Massachusetts Employees' Insurance Association..... 99
—— State insurance..... 34
—— State supervision of mutual associations..... 57
—— ways to prevent in work-

Digitized by Google

PAGE

men's compensation insurance; letter to John T. Clarkson 20
Montana; accident prevention; amount expended for. 9
Mutual insurance associations; advantages of stock liability insurance company over 57
—— policy holders elect officers; distinction between and State plans 30
—— reserves; insufficiency of; letter to Francis H. Bohlen 105

National Civic Federation; remarks by H. E. Wills at annual meeting 90
Nebraska; accident prevention; amount expended for. 9
—— accident prevention; small amount expended ... 4
Neisser, Dr.; statement in relation to accident insurance 93
Nevada; accident prevention; absence of statistics 10
New Hampshire; accident prevention; amount expended for 9
—— accident prevention; explanation of expenditures for 11
New Jersey; accident prevention; amount expended for. 9
—— accident prevention; explanation of expenditures for 11
—— workmen's compensation insurance; premium rates 52
New Mexico; accident prevention; amount expended for 9
New York; accident prevention; amount expended for. 9
—— accident prevention; explanation of expenditures for 11
New Zealand; competition between State insurance plan and private companies 74
North American Review; extract from article by Hugh Hastings 89
North Carolina; accident prevention; amount expended for 9
North Dakota; accident prevention; no system of inspection 10
—— Pure Food Law; sanitary inspection 10
Northwestern Tile and Clay Products Company; commendation of Fidelity & Casualty Company's publication 67
Norway; workmen's compensation insurance; description of plan 13
—— workmen's compensation insurance; only compulsory State insurance law in Europe 13
—— workmen's compensation act; refusal of England to adopt 18
Notice; election by employee; avoidance of litigation by proper notice 124
Notice of injury; Michigan act 127
—— Phillips bill 120

Digitized by Google

PAGE

Ohio; accident prevention; amount expended for..... 9
—— workmen's compensation act; defective imitation of Norwegian plan ... 17
—— workmen's compensation law; description of ... 17
—— workmen's compensation insurance; misunderstanding as to the German plan in its application to the scheme adopted in Ohio 12
Oklahoma; accident prevention; amount expended for. 9
Oregon; accident prevention; amount expended for..... 9

Palmer, C. A. (Commissioner of Insurance of Michigan); letter to; reviewing Michigan workmen's compensation act..... 122
Parliament; Laborite members' testimony before New York Commission..... 18
Payments; percentage of which reach injured employees under employers' liability law; letter to Frank P. Bennett, Jr..... 37
Peace Congress; efforts of as compared with importance of accident prevention.... 3
Peck, C. W. (Superintendent of Welfare Work of the International Harvester Company); commendation of Fidelity & Casualty Company's publication 67
Pennsylvania; accident prevention; amount expended for..... 9
—— accidents in coal mines. 4
Pennsylvania Railroad Co.; accident prevention; commendation of Fidelity & Casualty Company's publication..... 67
Phillips bill; extract from as to notice to employer..... 120
Premiums; rates of; approval by Insurance Commissioner of Massachusetts 102, 103
—— rates of; effect on by creation of Massachusetts Employees' Insurance Association 82, 83
—— rates; workmen's compensation insurance; basis of; letter to Samuel Botterill 44
—— rates; workmen's compensation insurance; basis of; second letter to Samuel Botterill..... 50
—— workmen's compensation insurance; California. 52
—— workmen's compensation insurance; New Jersey 52
—— workmen's compensation insurance; Wisconsin. 52
—— workmen's compensation insurance; why rates are higher than for employers' liability insurance; letter to Frank H. Bohlen... 52
"Prevention of Industrial Accidents"; publication by Fidelity & Casualty Company..... 67
Pure Food Law; North Dakota; sanitary inspection.. 10

Record of injuries; workmen's compensation act; Michigan 128

Digitized by Google

PAGE

Reserves; mutual insurance associations; insufficiency of; letter to Francis H. Bohlen 105
—— mutual associations; workmen's compensation act of Michigan 131
Rhode Island; accident prevention; amount expended for 9

"Safeguards"; publication of Aetna Life Insurance Company as to accident prevention 66
Schwedtman and Emery; remarks in "Accident, Prevention and Relief" as to accident prevention in Germany 80
Scientific American; accident prevention; commendation of Fidelity & Casualty Company's publication ... 67
Settlements; controversy between employers and employees; greater in Germany than in Great Britain 65
—— relative merits of liberal settlements or resisting claims 41
Sherman, P. Tecumseh; opinion as to cost of medical attention 126
—— remarks concerning litigation under British Compensation Act 78
Smith, H. B. (Safety Inspector for the Illinois Steel Company); commendation of Fidelity & Casualty Company's publication ... 67
South Carolina; accident prevention; amount expended for 9
South Dakota; accident prevention; absence of statistics 10
State insurance; accident prevention iii
—— actuaries 33
—— agents' commissions ... 32
—— auditing pay-rolls 32
—— competent managers and employees 33
—— dangers of vi
—— economical management 33
—— entire liability of employers cannot be covered by 33
—— Iowa; expenses; agent's commissions 32
—— Iowa; objections to; catastrophe hazard 22
—— Iowa; political control .. 23
—— Italy; remarks by Massachusetts Employees' Insurance Association 70
—— lack of influence of employers over operation of plan 31
—— Massachusetts Employees' Insurance Association is not a State company 72
—— Michigan plan; insufficiency of reserves; allowing Commissioner to supervise companies with whom he is in competition 105, 106
—— monopoly of 34
—— objections to, by liability insurance companies ... v
—— plans advocated are merely mutual associations conducted by State officials 30
—— political influence 33

Digitized by Google

PAGE

—— taxes; wrongful distribution of..... 30
—— weaknesses of; misunderstanding as to the German plan in its application to America, especially to the schemes adopted in Washington and Ohio; letter to John T. Clarkson..... 12
Statistics; publication of...46, 50
Stock liability insurance companies; advantages over mutual liability insurance associations..... 57
See LIABILITY INSURANCE COMPANIES.
Sweden; accident insurance system; remarks by Massachusetts Employees' Insurance Association..... 71
—— State insurance; secret of success of State plan... 72

Taxation; State insurance; wrongful distribution of taxation by plans of State insurance now proposed... 30
Tennessee; accident prevention; amount expended for. 9
—— accident prevention; explanation of expenditures for..... 10
Texas; accident prevention; amount expended for..... 9

United States Casualty Company; record of according to Wainwright Commission 65
Utah; accident prevention; amount expended for..... 9

Value of products in the United States; amount added by labor of workmen 5

PAGE

Van Schaack, David; lectures on accident prevention... 67
Vermont; accident prevention; amount expended for. 9
Virginia; accident prevention; amount expended for..... 9
—— accident prevention; explanation of expenditures for..... 11
Vorys, Arthur I.; remarks on supervision of insurance companies..... 35

Wage earners; number of engaged in manufactures.... 10
See CENSUS.
Wainwright Commission; record of as to United States Casualty Co..... 65
Washington; accident prevention not paid for by State.. 10
—— workmen's compensation act; defective imitation of Norwegian plan... 17
—— workmen's compensation act; description of.... 14
—— workmen's compensation insurance; misunderstanding as to German plan in its application to the scheme adopted in Washington..... 12
West Virginia; accident prevention; amount expended for..... 9
Wills, H. E.; remarks at meeting of National Civic Federation..... 90
Wisconsin; accident prevention; amount expended for 9
—— workmen's compensation act; medical attention; cost of..... 82

Digitized by Google

PAGE

—— workmen's compensation act; medical attention; expense of 126
—— workmen's compensation insurance; premium rates 52
Wisconsin Mutual Employers' Liability Association; experience as to cost of medical attention. 82
Wolfe, S. H.; not the eminent expert referred to by the Massachusetts Employees' Insurance Association 74
"Woodworking Safety Guards"; accident prevention; publication by Aetna Life Insurance Co.. 66
Workmen's compensation; accident prevention more important than 1
Workmen's compensation acts; abrogation of remedies where employers do not elect to accept the act. 115
—— alien dependents 118
—— amount of compensation for death 118
—— amount of compensation for total disability. 118
—— amount of compensation for partial disability. 118
—— compulsory insurance. . 120
—— declaration of employees as to election under the act 122
—— direct liability of insurance companies; Hotchkiss Committee clause in reference to Michigan act. . . . 131
—— domestic servants and farm laborers; Michigan act; letter to C. A. Palmer. 122

PAGE

—— duration of disability before compensation begins 116
—— election of remedies. . . . 114
—— employer carrying old risk; Michigan plan 129
—— general discussion of the scope of such statutes; letter to Harvey E. Garman. 111
—— insurance company subject to provisions of; Michigan law. 129
—— liability insurance companies in favor of 85
—— medical attention; Michigan law 124
—— medical attention; Wisconsin law; expense under. 126
—— Michigan; review of; letter to C. A. Palmer. . . . 122
—— non-resident alien dependents; compensation to 133
—— notice to employer; extract from Phillips bill. . . . 120
—— notice of injury and of claim. 117
—— notice of injury; Michigan. 127
—— record of injuries; Michigan law. 128
—— settlement of disputes under; by whom made. . . . 117
—— special contracts between employer and employee. 116
—— suddenness with which laws have been adopted. . . v
—— suit for damages in lieu of compensation 115
—— to whom they shall apply. 112

Digitized by Google

PAGE

—— to whom they shall apply; letter to Harvey E. Garman 111
—— upon whom shall the burden of compensation rest 113
—— what persons shall be compensated 112
Workmen's compensation insurance; cost in England 59–64
—— cost of; comparison between cost and service of by Massachusetts Employees' Insurance Association and stock companies 97, 104
—— employers insure in liability companies to take care of entire liability 33
—— monopoly by mutual insurance association under State supervision 57
—— California premium rates 52
—— New Jersey; premium rates 52
—— premium rates; basis of; letter to Samuel Botterill .. 44
—— premium rates; basis of; second letter to Samuel Botterill 50
—— premium rates; why they are higher than for employers' liability insurance; letter to Francis H. Bohlen 52
—— State insurance; plans advocated are merely mutual associations conducted by State officials 30
—— Wisconsin; premium rates 52
Wyoming; accident prevention; absence of statistics .. 10

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

THE BORROWER WILL BE CHARGED AN OVERDUE FEE IF THIS BOOK IS NOT RETURNED TO THE LIBRARY ON OR BEFORE THE LAST DATE STAMPED BELOW. NON-RECEIPT OF OVERDUE NOTICES DOES NOT EXEMPT THE BORROWER FROM OVERDUE FEES.

GENERAL
BOOK DUE
APR 1 1982
MAR 30 1982
753233

Digitized by Google

Widener Library
3 2044 100 862 267

Digitized by Google